

SCRAP METAL DEALERS ACT 2013 – GUIDANCE FOR APPLICANTS



INTRODUCTION

1. The Scrap Metal Dealers Act 2013 comes into effect on 1 October 2013. The Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 and establishes a new licensing regime for the scrap metal dealing and vehicle dismantling industries.
2. Under the Act it will be an offence to carry on a business as a scrap metal dealer unless authorised by a licence obtained from the relevant local licensing authority.

DEFINITIONS

3. The following definitions are given within the Scrap Metal Dealers Act 2013.

“A person carrying on a business as a scrap metal dealer”

4. A person carries on business as a scrap metal dealer if that person:
 - Carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought; or
 - Carries on a business as a motor salvage operator.
5. A person who manufactures articles is not to be regarded as selling scrap metal, if that person sells scrap metal only as a by-product of manufacturing articles or as surplus materials not required for manufacturing them.
6. A person carries on business as a motor salvage operator if that person carries on business which consists:
 - Wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap; or
 - Wholly or mainly in buying written off vehicles and subsequently repairing and reselling them; or
 - Wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the above activities.

‘Scrap metal’

7. ‘Scrap metal’ includes:
 - Any old, waste or discarded metal or metallic material; and
 - Any product, article or assembly which is made from or contains metal

and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

8. However, the following are not scrap metal:
- Gold;
 - Silver; and
 - Any alloy of which 2 per cent or more by weight is attributable to gold or silver.

TYPES OF LICENCE

9. There are two types of licence available. These are:
- **A site licence** which authorises the licensee to carry on business at any site in the authority's area which is identified in the licence;
 - **A collector's licence which** authorises the licensee to carry on business as a mobile collector in the issuing authority's area.
10. Only one or other of the licences may be held in a local authority area.
11. Both licences are renewable every three years.

Site licence

12. Under the Act, 'site' is defined as 'any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there)'.
13. A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. The licence will permit the licensee to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

Collector's licence

14. A collector's licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal.
15. The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licences does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use any fixed site, they will need to obtain a site licence from the relevant local authority.

HOW TO APPLY

16. Applications for scrap metal dealers licences may be made on behalf of an individual, a company or a partnership.
17. Applications must be made

- In the case of a site licence, to the local authority in whose area a scrap metal site is situated; or
 - In the case of a collector's licence, to the local authority in the area that the collector operates.
18. Application must be made on the form provided by the relevant local authority.
 19. Forms must be completed in full and returned, signed and dated, together with all relevant requested documentation and the correct fee. Failure to complete all relevant parts of the form or provide requested information could lead to the application being returned or rejected.
 20. All applications must provide a Basic Check from Basic Disclosure and Barring Service (DBS) for every person named in the application. You can apply for this certificate at <https://www.gov.uk/request-copy-criminal-record>
 21. Basic Checks are considered valid for up to three months within Southwark. Please note that other local authorities may have a different view. Please also note that we will wish to receive or view the original document when your application is submitted. Your original document is returnable.
 22. Applications made for individual collector's licences must also provide 2 x full faced passport sized photographs of the applicant and proof of home address (utility bill, bank statement or other acceptable document – please check with this office).

HOW YOUR APPLICATION IS CONSIDERED

23. Section 3 of the Act states that a council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer – a suitability test. In assessing an applicant's suitability the council can consider any information it considers relevant. This includes whether the applicant or any site manager has been convicted of any relevant offence or subject of any relevant enforcement action (see appendix A for more information).
24. Once your completed application is received, we will review the information provided and may consult with the Police; the Environment Agency / Natural Resources Wales; the Planning Authority; and other local authorities.
25. The police may object to a licence application where they believe that the applicant is not a suitable person as defined in the Act.
26. If having conducted an initial assessment, the council is minded to refuse the application; we will notify the applicant and provide the reasons for this. We will also offer the opportunity to the applicant to make representations or let the council know if they wish to do so. If the applicant confirms, within the time permitted, that they want to make representations then arrangements will be made for those representations to be considered by the council's licensing sub-committee. If the applicant does not wish to make representations or no response is received, the council can refuse the application.
27. The local licensing authority also has the ability to impose specified conditions upon a licence where the applicant or site manager has been convicted of a relevant offence. These conditions are:

- The dealer can receive scrap metal only between 0900 and 1700 on any day (in effect limiting the dealer's operating hours); and / or
 - Any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.
28. Appeals against a decision by the council to refuse a licence, or to impose conditions, or to revoke or vary the licence, are to the magistrates' court. A period of 21 days is permitted from the day on which notice is given of the decision in which to appeal.

DISPLAY OF LICENCE

29. A scrap metal dealer who holds a site licence must display a copy of the licence at each site identified in the licence. It must be positioned in a prominent place in an area accessible to the public.
30. A scrap metal dealer who holds a collector's licence must display a copy of the licence on any vehicle being used in the course of the dealer's business. The copy must be displayed in a manner which enables it to be easily read by a person outside of the vehicle.

VERIFICATION OF SUPPLIER'S IDENTITY

31. A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address. That verification must be by reference to documents, data or other information obtained from a reliable and independent source.

OFFENCE OF BUYING SCRAP METAL FOR CASH

32. A scrap metal dealer must not pay for scrap metal except by a non-transferable cheque or by an electronic transfer of funds.

RECORDS

33. The Act requires that licensed operators keep a range of records.
34. If a scrap metal dealer receives any scrap metal in the course of the dealer's business the dealer must record the following information:
- The description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
 - The date and time of its receipt;
 - If the metal is delivered in or on a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) of the vehicle;
 - If the metal is received from a person, the full name and address of that person; and
 - If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
35. If the dealer receives the metal from a person, the dealer must keep a copy of

- any document which the dealer uses to verify the name or address of that person.
36. If the dealer pays for the metal by cheque, the dealer must keep a copy of the cheque.
 37. The records mentioned in sections 38 and 39 must be marked so as to identify the scrap metal to which they relate.
 38. If the dealer pays for the metal by electronic transfer:
 - The dealer must keep the receipt identifying the transfer; or
 - If not receipt identifying the transfer was obtained, the dealer must record particulars identifying the transfer.
 39. If a scrap metal dealer disposes of any scrap metal in the course of the dealer's business under a site licence, the dealer must record the following information:
 - The description of the metal, including its type (or types if mixed), form and weight;
 - The date and time of its disposal;
 - If the disposal is to another person, the full name and address of that person; and
 - If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.
 40. If a scrap metal dealer disposes of any scrap metal in the course of the dealer's business under a collector's licence, the dealer must record the following information:
 - The date and time of the disposal; and
 - If the disposal is to another person, the full name and address of that person.
 41. All of the above records must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
 42. All records must be kept for a period of 3 years beginning with the day on which the metal is received or (as the case may be) disposed of.
 43. It is an offence to fail to fulfil any of the requirements listed above.

AUTHORISED OFFICERS

44. Authorised officers (a constable or an officer of a local authority) have the right to enter and inspect a licensed site at any reasonable time on notice to the site manager.
45. Authorised officers may require production of, and inspect, any scrap metal kept at any licensed premises or any records.
46. Officers will provide guidance in establishing and maintaining correct records systems and will conduct regular audits of records.

47. It is an offence to obstruct an authorised officer in the course of their duty or to fail to produce records. Authorised officers will be able to produce evidence of their identity.

MAINTAINING YOUR LICENCE

48. As mentioned, Scrap Metal Dealers licences will normally be issued for three years and are renewable.
49. Any change of details relevant to the licence must be notified to the council at the first available opportunity. This includes any change in company or personal details; changes in company directors, shadow directors, company secretary; or in relevant convictions.
50. Changes in details which are material to the licence (for instance a change in the site manager) will require a variation of the licence.
51. Licences may not be transferred. However, it is possible to apply to vary a collector's licence to a site licence.

FURTHER INFORMATION

52. If you require any further information about the Act; the process for applying for a licence; or if you wish to seek advice from a licensing officer, please contact us by any of the following methods.

THE LICENSING SERVICE

By telephone, via the 24/7 Customer Contact Centre on 020 7525 2000.

By email at licensing@southwark.gov.uk

By writing to The Licensing Service, Southwark Council, PO Box 64529, SE1P 5LX

The Licensing Service
September 2013

Appendix A: Relevant Offences under the Scrap Metal Dealers Act 2013

Relevant offences

2. For the purposes of section 3(3) (b) of the Scrap Metal Dealers Act 2013, “relevant offence” means any offence specified in the Schedule to these Regulations, and includes an offence of—

- (a) attempting or conspiring to commit any offence falling within the Schedule;**
- (b) inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the Schedule, and**
- (c) an offence under Part 2 of the Serious Crime Act 2007(2) (encouraging or assisting crime) committed in relation to any offence falling within the Schedule.**

Relevant enforcement action

3. For the purposes of section 3(3) (c) of the Scrap Metal Dealers Act 2013, a person is the subject of “relevant enforcement action” if—

- (a) the person has been charged with an offence specified in the Schedule to these Regulations, and criminal proceedings in respect of that offence have not yet concluded; or**
- (b) an environmental permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 (3) has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.**

SCHEDULE

Regulation 2

PART 1

Primary Legislation

- (a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989(4)**
- (b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979(5), where the specific offence concerned relates to scrap metal**
- (c) An offence under section 110 of the Environment Act 1995(6)**
- (d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990(7)**
- (e) An offence under section 9 of the Food and Environment Protection Act 1985(8)**
- (f) An offence under section 1 of the Fraud Act 2006(9), where the specific offence concerned relates to scrap metal, or is an environment-related offence**
- (g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(10)**
- (h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002(11)**
- (i) Any offence under the Scrap Metal Dealers Act 1964(12)**
- (j) Any offence under the Scrap Metal Dealers Act 2013**
- (k) An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act**

1968(13), where the specific offence concerned relates to scrap metal, or is an environment-related offence

(l) Any offence under Part 1 of the Vehicles (Crime) Act 2001(14)

(m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991(15).

PART 2

Secondary Legislation

(a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007(16)

(b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010(17)