



SHEFFIELD CITY COUNCIL Committee Report

Report of: Chief Licensing Officer, Head of Licensing

Date: 12th September 2013

Subject: Scrap Metal Dealers Act 2013

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Summary: To inform Members of the new Scrap Metal Dealers Act 2013, its implications, to approve the fees and application documents for a Scrap Metal Dealer licence and recommend that the published scheme of delegation be amended to reflect the legislative changes

Recommendations: That members consider all the information provided in the report and that included in any attachments before determining whether to approve the fee and application documents.

Background Papers: Attached to this report
[Scrap Metal Dealers Act 2013](#)
[Scrap Metal Dealers Act 2013 – Explanatory Notes](#)
[LGA Guide to the Scrap Metal Dealers Act 2013: Applications](#)
[Home Office guidance on fee setting](#)

Category of Report: OPEN

REPORT OF THE CHIEF LICENSING OFFICER (HEAD OF LICENSING) TO THE LICENSING COMMITTEE

No: 51/13

SCRAP METAL DEALERS ACT 2013

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to inform Members of the new Act, its implications, to approve the fees and application documents for a Scrap Metal Dealer licence and recommend that the published scheme of delegation be amended to reflect the legislative changes

2.0 INTRODUCTION AND BACKGOURND TO THE ACT

- 2.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and is due to come into effect on the 1st October 2013.
- 2.2 The new Act will replace the Scrap Metal Dealers Act 1964 and part of the Vehicle (Crime) Act 2001 that deals with motor salvage operators.
- 2.3 The statute revises the regulatory regime for scrap metal dealing and vehicle dismantling. Local Authorities will continue to act as the main regulator but the new statute gives the authority more powers, including the power to refuse and revoke licences if the dealer is considered 'unsuitable'. Both the local authority and the Police have been given powers to enter and inspect premises.
- 2.4 The changes in the legislation have been prompted by the impact of metal theft – this has become an increasing problem across the UK as the value of metal has risen. A wide range of bodies in both the public and private sectors are commonly affected. Targets include transport, electricity and telephone infrastructure, street furniture and memorials - this affects commercial and residential buildings, together with churches and schools.
- 2.5 In 2012 the Government brought in some initial steps through the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, as follows:-
- to prohibit cash payments for scrap metal;
 - to amend Police powers of entry into unregistered scrap metal sites; and
 - to increase the existing financial penalties for offences under the Scrap Metal Dealers Act 1964.

3.0 KEY FEATURES OF THE ACT

- 3.1 The aim of the Act is to revise the regulatory regime for scrap metal dealing and vehicle dismantling and to give the Police and Local Authorities more powers to refuse and revoke licences as well as greater rights of entry and inspection.
- 3.2 A 'Scrap Metal Dealer' is defined under the Act as follows:

(2) A person carries on business as a scrap metal dealer if the person—

- (a) 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
 - (b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).
- (4) For the purposes of subsection (2)(b), a person carries on business as a motor salvage operator if the person carries on a business which consists —
- (a) 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,
 - (b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
 - (c) 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 activities mentioned in paragraphs (a) and (b), or
 - (d) wholly or mainly in activities falling within paragraphs (b) and (c).
- 3.3 Currently, Sheffield have 21 registered as Motor Salvage Operators and 91 as Scrap Metal Dealers who will require licences under the new Act.
- 3.4 The Act brings in two types of licences either a **'site licence'** or a **'collector's licence'**. A person can only hold one licence in a Local Authority's area but can hold a licence in more than one local authority.
- 3.5 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. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.
- 3.6 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.
- 3.7 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 licence does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use a fixed site, they will need to obtain a site licence from the relevant local authority.
- 3.8 The Act also specifies that a licence will be issued by the local authority in whose area a scrap metal site is situated, or (in respect of a mobile collector) in the area that the collector operates.
- 3.9 An applicant for a licence must be 'suitable' and the Local Authority, when determining suitability, can have regard to:
- Whether the applicant or any site manager has been convicted of any relevant offence

- Whether the applicant or any site manager has been the subject of any relevant enforcement action
 - Any previous refusal for issue of or renewal of a scrap metal licence
 - Any previous refusal for an environmental permit or registration
 - Any previous revocation of a scrap metal licence
 - Whether the applicant has demonstrated that there will be adequate procedures to comply with the act.
 - All of the above will apply to any director, or any secretary of a company if the applicant is not an individual
- 3.10 Currently the Licensing Authority is awaiting regulations from the Secretary of State as to the named relevant offences.
- 3.11 After receipt of an application the Local Authority must consult with:
- The Environment Agency
 - The Police
 - Any other Authority as may be required to determine suitability
- 3.12 The Act has introduced the requirement that the Environment Agency keep and maintain a register of scrap metal licences issued in England and that the register must be open for public inspection.
- 3.13 The Act introduces the requirement that the scrap metal dealer verifies the identity of the person's full name and address of the metal supplier and keeps copies of the proof of identification. In addition the dealer must keep records of the type and description of the metal(s) including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques used to pay for metal. All records must be kept for 3 years. The Act also prohibits the payment of cash for metal.
- 3.14 Police officers and local authority officers have been given powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records kept and take copies of those records. Further, the Act provides police or local authority powers to issue closure notices to unlicensed scrap dealing premises and apply to a justice of the peace for a closure order.
- 3.15 The current legislation only permits registration with minimal information and no fee payable. The new act will require more detailed information to be submitted on application and will allow the local authority to set a fee. The fee must be on a cost recovery basis and local authorities will have to have regard to guidance issued by the Secretary of State.

4.0 TRANSITIONAL ARRANGEMENTS

- 4.1 In order to provide time for Councils to process applications without existing businesses being in a position where they cannot operate, the Home Office is implementing a transition period. The details of which are set out below:
- All scrap metal dealers can apply for a scrap metal dealer's licence under the 2013 Act from 1st October 2013.

- A scrap metal dealer who is currently registered under the Scrap Metal Dealers Act 1964 or Vehicles (Crime) Act 2001 (Motor Salvage Operators) will be deemed to have a licence under the Act from the 1st October, provided the dealer submits an application for a licence between the 1st October and 15th October 2013. This temporary licence will be valid until a licence decision is issued. A formal licence decision will be issued by the local authority by the 1st December 2013.
- Local authorities will complete checks to assess applicants' suitability to hold a licence between 15th October 2013 and 1st December 2013.
- If a registered scrap metal dealer does not submit an application on or by 15th October 2013 their deemed licence will lapse on 16th October 2013. A deemed temporary licence which has lapsed does not give rise to a right to appeal. The dealer must submit an application and wait for a licence to be issued before they can trade legally.
- A local authority can impose conditions on a deemed temporary licence pending an appeal for the refusal of a licence.
- Scrap metal dealers who are not registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 can apply for a scrap metal dealer's licence from 1st October 2013 but must wait for a licence to be issued before they can trade legally.
- The offence of buying scrap metal for cash will come into force on 1st October 2013.
- Local authority officers and police officers will have the right to enter and inspect sites from 1st October 2013.
- The majority of the other enforcement provisions within the Act will come into force on 1st December 2013

5.0 FEE SETTING

- 5.1 The Act provides that an application for a licence must be accompanied by a fee. The fee will be set locally by each local authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary State which outlines the issues that should be considered when setting the fee and what activities the fee can cover. The fee will be an essential component of the new regime as it will provide local authorities with the funding needed to administer the system and ensure compliance.
- 5.2 The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that fees charged do not exceed the costs of providing the service.
- 5.3 The Home Office has published guidance to assist local authorities in setting these fees; the general principle is that fees should reflect:
- The cost of administering and processing applications.
 - Having experienced licensing officers review them
 - Storage
 - Consulting and reviewing on the suitability of applicants
 - History checks

- Decision making process
- The cost of issuing licences in a suitable format
- Contested applications
- Compliance- Entry, inspection

5.4 The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through central Council funds.

5.5 In taking into consideration of the above and in reference to the fee guidance issued by the Home Office, the Licensing Authority recommends the following fees for approval which will recover our known costs.

5.6	Site Licence	-	New	-	£350
		-	Renewal	-	£300
	Collectors Licence	-	New	-	£150
		-	Renewal	-	£100
	Site / Collectors Licence Variation	-		-	£75
	Copy of Licence	-		-	£10.50

5.7 If approved these fees will be reviewed and determined every year as normal practice to ensure full cost recovery.

6.0 APPLICATION FORMS

6.1 Schedule 1 of the Act sets out what information must accompany an application, paragraph 4(1) also states that Councils are entitled to request any further information they regard relevant to consider an application.

6.2 The Local Government Authority (LGA) has produced a template application form which covers the information the legislation specifies. This form is not prescribed and Sheffield's Licensing Authority has made amendments to include further documentation.

6.3 A draft application form for the grant or renewal of a licence with our guidance is attached at Appendix 'A'. Applicants will be requested to enclose a basic disclosure from Disclosure Scotland with their applications which will disclose any unspent convictions which may be relevant.

6.4 A draft application for the variation of a Scrap Metal Dealers licence is attached at Appendix 'B'.

7.0 LEGAL IMPLICATIONS

7.1 The scheme is a statutory requirement placed upon the Council. The Act completely replaces the previous registration scheme local authorities operated for scrap metal dealers. Local authorities will now be responsible for the licensing of scrap metal dealers and enforcement of the licensing regime alongside the Police.

- 7.2 Appeals against a decision of the Council to refuse an application, to impose a condition on the licence or to revoke or vary the licence will be to the Magistrates' Court.
- 7.3 The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013. *This Order brings into force the Scrap Metal Dealers Act 2013 ("the 2013 Act"), which repeals the Scrap Metal Dealers Act 1964 and the system of registration contained therein, and replaces it with a new system of licensing, to be administered by local authorities. The 2013 Act also replaces the system of registration for motor salvage operators under the Vehicles (Crime) Act 2001, in that motor salvage operators will now be treated as scrap metal dealers who fall to be licensed under the new regime.*
- 7.4 Power to licence scrap yards pursuant to section 1 of the Scrap Metal Dealers Act 1964 is a matter presently falling within the terms of reference to Licensing Committee, meaning that it will be necessary to amend the published scheme of delegation to reflect the legislative changes.

8.0 FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications for the Council arising from this report. Should Members agree the proposed fees as detailed in the report; the Council will recover its reasonable costs in relation to administering / enforcing the above licensing system.

9.0 RECOMMENDATIONS

- 9.1 That members consider all the information provided in the report and that included in any attachments before determining whether to approve the fees and application documents.

10.0 OPTIONS OPEN TO THE BOARD

- 10.1 That Members of the Licensing Committee approve the new forms, proposed new fees and recommend that the published scheme of delegation be amended to reflect the legislative changes.
- 10.2 That Members of the Licensing Committee make further amendments to the documents before approving the new forms and proposed new fees.

Stephen Lonnia
Chief Licensing Officer & Head of Licensing
Business Strategy & Regulation
Place

16th August 2013

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