

GUIDANCE FOR SCRAP METAL DEALERS  
ACT 2013



## **Scrap Metal Dealers Act 2013**

The Scrap Metal Dealers Act 2013 replaces the previous registration scheme for scrap metal dealers created by the 1964 Scrap Metal Dealers Act. Every scrap metal dealer will be required to have a licence and operating without one is a criminal offence. Under the new legislation the definition of scrap metal dealers is extended to include motor salvage operators (vehicle dismantling industries), and the provisions in the Vehicles (Crime) Act 2001 under which they operate will end once the new Act comes into effect.

The 2013 Act defines a 'scrap metal dealer' as a person who carries on the 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 is bought. This does not include manufacturing operations that sell scrap metal as a by-product of the processes being used in that operation. This includes the business of collecting scrap metal, i.e door to door collectors.

The definition of scrap metal is wide and may include skip hire firms, and tradesman, such as plumbers and builders who sell scrap metal resulting from their businesses. In these circumstances each business will be considered on its own merit but consideration will be given to the amount of metal sold and how incidental the sale is to the main business. In most cases for plumbers' electricians and builders etc, the sale of metal will be incidental and should not require a licence. However skips sited at demolition sites, or at engineering manufacturing sites or plumbers yards, it is likely the skip will contain a significant amount of metal, so the skip hire company will require a licence.

The Licensing Authority has power under the Act to regulate these industries by the ability to refuse licences to unsuitable applicants and the power to revoke those licences held by licence holders who become unsuitable.

The Act states that 'scrap metal' includes;

- Any old, waste or discarded metal or metallic materials, 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.

(the above definition does not include platinum and other rare materials now being used in catalytic converters in vehicle exhausts.)

The following are not considered 'scrap metal';

- Gold
- Silver, and
- Any alloy of which 2 per cent or more weight is attributable to gold or silver.

A dealer also includes someone carrying on the business as a motor salvage operator. This is defined as a business that;

- Wholly or partly recovers salvageable parts from motor vehicles for re-use or re-sale, and then sells the rest of the vehicle for scrap
- Wholly or mainly involves buying written off vehicles and then repairing and re-selling them
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and re-selling them.

The Act is not intended to include second hand goods, jewellers businesses trading in second hand gold, silver and products are not included in this legislation.

In respect of vehicles, only vehicles that are capable of being driven without repair, with or without a valid MOT are likely to be classed as second hand goods. Issuing a certificate of destruction would clearly indicate a vehicle is scrap and a trader should not in those circumstances pay cash for it... These aspects will be considered when the Council determines whether or not a scrap metal dealer licence is required.

### **Types of Licence**

A licence is required to carry on the business of a scrap metal dealer and once granted lasts for three years. Trading without a licence is a criminal offence.

Under the 2013 Act there are two types of licence;

#### **Site Licence**

A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there).' This means that a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises.

All the sites operating as a scrap metal business must be licensed. Each site must have a named site manager. A site licence allows the licence holder to transport scrap metal to and from those sites from any local authority area.

#### **Collectors Licence**

A collector is defined as a person who carries on business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste materials and old, broken, worn out or defaced articles by means of door to door visits.

This licence allows the holder to collect scrap within the area of the issuing local authority. This licence does not permit the holder to operate a scrap metal site, nor does it allow collection outside to the area of the issuing

licence. A separate licence has to be obtained from each council the collector wishes to operate in.

A dealer can only hold **ONE** type of licence in any one local authority area. A licence holder cannot hold both a site and collectors licence from the same council.

Holding a site or collectors licence does not exempt the licensee from requiring any other licence or permit to operate their scrap metal business.

### **Suitability of Applicant**

The Council must determine if an applicant is a suitable person to carry on the business as a scrap metal dealer and may consider any information which it considers to be relevant, this may include:

- Whether the applicant or site manager has been convicted of any relevant offence; or
- Whether the applicant or site manager has been the subject of any relevant enforcement action; or
- Whether there has been any refusal of an application to grant or renew a scrap metal licence, and the reasons for that refusal; or
- Whether there has been any refusal of an application for a relevant environmental permit or registration, and the reasons for the refusal; or
- If there has been any previous revocation of a scrap metal licence, and the reasons for the revocation; or
- Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

### **Consultation**

When establishing the applicant's suitability, the Council **WILL** consult with the following agencies for a period of 14 days;

- Derbyshire Constabulary
- Her Majesty's Revenue and Customs
- Environment Agency
- The Councils Environmental Protection Team
- The Councils Planning Section
- Other local authorities

## **Supply of Information by Authority**

Information supplied to the Council in relation to an application for, or relating to a scrap metal licence must be provided to any of the following persons who request it;

- Any other local authority;
- The Environment Agency; or
- An Officer of a police force.

This does not limit any other power the authority has to supply this information.

## **Register of Licences**

The Environment Agency will maintain a register of scrap metal licences issued by all local authorities in England. The register will include the following information:

- a) the name of the authority which issued the licence
- b) the name of the licensee
- c) any trading name of the licensee
- d) the address of any site identified in the licence
- e) the type of licence, and
- f) the date on which the licence is due to expire.

The register is open for inspection by members of the public. The Council are required to update the register on a regular basis.

## **Display of Licence**

Once granted, a copy of the licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.

A copy of a collector's licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can be easily read from outside the vehicle.

## **Verification of Supplier's Identity**

Before receiving scrap metal, the dealer must verify a person's full name and address, by reference to documents or data from a reliable and independent source.

If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for verifying the name and address, shall be guilty of an offence.

## **Payment for Scrap Metal**

A scrap metal dealer must only pay for scrap metal by either:

- a) cheque (which is not transferable under Section 81A of the Bills of Exchange Act 1882); or
- b) electronic transfer of funds (authorised by a credit, debit card or otherwise)

Payment includes paying in kind with goods and services.

## **Records**

The scrap metal dealer must keep three types of records:

- a) Receipt of Metal
- b) Disposal of Metal
- c) Supplementary

## **Receipt of Metal**

If metal is received in the course of the dealer's business, the following must be recorded:

- a) Description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features ;
- b) Date and time of receipt;
- c) The registration mark of the vehicle it was delivered by;
- d) Full name and address of the person delivering it, and
- e) Full name of the person making payment on behalf of the dealer.

The dealer must keep a copy of the documents used to verify the delivery person's name and address.

If payment is by cheque a copy of the cheque must be retained.

If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

## **Disposal of Metal**

Disposal under the Act covers metal:

- a) Whether or not it is in the same form when it was purchased;
- b) Whether or not it is to another person; or
- c) Whether or not it is despatched from a site.

Disposal records must be recorded, including:

- a) Description of the metal, including its type (types if mixed), form, weight
- b) Date and time of disposal;
- c) If to another person, their full name and address, and
- d) If payment is received for the metal (sale or exchange) the price or other consideration received.

If disposal is in the course of business conducted under a collector's licence, the dealer must record:

- a) Date and time of disposal, and,
- b) If to another person, their full name and address.

### **Supplementary**

The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

The records of receipt must be marked so as to identify the metal to which they relate.

Records must be kept for a period of 3 years beginning on the day of receipt, or disposal (as may be).

If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence.

A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

### **Right of Entry & Inspection**

A Constable or authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with or without notice to the site manager.

Entry and inspection without notice would occur, if:

- a) Reasonable attempts to give notice had been given and had failed, or
- b) Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating offences under it, and, in either case, the giving of the

notice would defeat that purpose.

Sections 16.1 and 16.2 do not apply to residential premises.

A Constable or authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises for the purpose of:

- a) securing compliance with the provisions of the Act, or
- b) ascertaining whether those provisions are being complied with.

'Premises' under this section include:

- a) licensed site, or
- b) Premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.

An authorised officer of the Council may use reasonable force in the exercise of the powers under a warrant obtained under section 16.8

An authorised officer of the Council may require:

- a) production of, and inspect, any scrap metal kept at any licensed premises, and
- b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
- c) to take copies of or extracts from any such record

An authorised officer of the Council must produce evidence of their identity, and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

### **Application Procedure**

An application form, available from the Councils website or from the Licensing Section must be completed, together with the correct fee and a current Basic Disclosure of criminal convictions. A Basic Disclosure will be valid for 3 months from the date of issue. In the case of a partnership or company the suitability of each of the Partners, Director and Company Secretary will need to be assessed and a Basic Disclosure Certificate provided for each.

The application form must include;

- the full name, date of birth and usual place of residence of an individual applicant ( including mobile collectors), anyone proposed as a site



manager for a site, and every partner where a partnership is applying for a licence

- the company name, registered number and registered office address where applicable
- any proposed trading name for the business
- the telephone number and email address(if any) of the applicant
- where it is a site licence, the address of each proposed site to be included on the licence
- the address of any site in another council area where the applicant already carries on business or proposes to do so
- details of any relevant environmental permit or registration held by the applicant
- details of any other scrap metal licences issued to the applicant within the three years before making this application
- details of the bank account(s) to be used for cashless transactions – where a licensee operates multiple sites different bank accounts may be used.
- Details of any relevant conviction or enforcement action that relates to the applicant.

A licence once granted is valid for 3 years.

A renewal application must be received before the expiry of the current licence.

If an application is withdrawn the licence expires at the end of the day on which the application is withdrawn.

If the application is refused the licence expires when no appeal is possible.

A licence may be varied from one type to another, i.e. a site licence to a collectors licence.

An application must be made to reflect changes to;

- name or address of licensee, change in partnership, change to proposed trading name, change of site manager, changes of site on a site licence, or
- Name of licensee on a collector's licence.

You cannot transfer the licence to another person, only amend the name and address of licensee.

Chesterfield Borough Council may request additional information considered relevant for the purpose of considering the application. Failure to provide such information may result in the application being refused.

If the Council proposes to refuse an application, or to revoke, or to vary a licence by imposing conditions, a notice must be issued to the licence holder

setting out the Council's proposals and the reasons for the decision. The notice will indicate the time period in which the applicant or licensee can either;

- a) make representations about the proposal, or
- b) Inform the Council that the applicant or licensee wishes to do so.

This time period must not be less than 14 days beginning on the day the notice was given to the applicant or licensee. Within this time the applicant or licensee must notify Chesterfield Borough Council that they do wish to make representations.

If the applicant or licensee does NOT make a representation or notify the Council that they wish to do so, the Council may refuse, revoke or vary the licence. The Council will allow 14 days for written representations to be received from the date the application becomes contested, or the Council receives notification of the applicant having a relevant offence. The applicant or licensee may wish to make an oral representation; if this is the case the person must notify the Council within the 14 day time period.

If this time period lapses, without a written representation, or a request for an oral representation being received, the Council may refuse, revoke or vary the licence.

Where there is a representation a hearing will be arranged, and the case will be referred to the Appeals and Regulatory Committee. The applicant or licensee will be invited to attend.

In the event of a refusal of an application, revocation or variation of a licence, a notice outlining the Council's decision and the reasons for it will be given to the applicant/licensee. The notice will include the appeal procedure.

## **Appeals**

An applicant may appeal to the magistrate's court against a refusal of an application or variation.

The licensee may appeal to the Magistrates' court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act, within 21 days of receipt of the decision notice.

## **Revocation and Imposing of Conditions**

The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.

The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.

The Council may revoke a scrap metal licence if it is no longer satisfied the

licence holder is no longer a suitable person to carry on the business. If the licence holder, or site manager named on a licence is convicted of a relevant offence, the authority may impose one or both of the following conditions:

- a) The dealer can receive scrap metal only between 9.00am and 5.00pm on any day (limiting the dealers operating hours): and /or
- b) All scrap metal received must be kept in the form in which it was received for a specified period, not exceeding 72 hours, beginning with the time when it was received.

A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn. If the authority considers the licence should not continue without the addition of one or more of the conditions in section 15.4, the licence holder will be given notice :

- a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions, or
- b) that a variation comes into immediate effect.

### **Closure of Unlicensed Sites**

If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice.

A copy of the notice must be given to:

- a) a person who appears to be the site manager, and
- b) any person who appears to be a director, manager, or other officer of the business.

A copy may also be given to any person who has an interest in the business, a person who occupy part of the premises, or where the closure may impede a person's access to that other part of the premises.

After a period of 7 days, the authorised officer may apply to a justice of the peace for a closure order.

The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.

A closure order will close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. It will require the defendant to pay a sum into the court, which will not be released until the person has complied with the requirements of

the order.

Such an order may have a condition relating to the admission of people into the premises, or may include a provision the court considers appropriate.

A copy of the order must be placed on the premises in a prominent position by the Council.

Once the requirements of the order have been complied with and the Council is satisfied the need for the order has ceased, a certificate may be made. This ceases the order and the sum of money paid into the court is released.

A copy of the certificate must be given to any person the closure order was made against, give a copy to the court and place a copy on the premises.

A copy must be given to anyone who requests one.

Anyone issued with a closure order may complain to a justice of the peace. The court may discharge the order, if it is satisfied there is no longer a need for a closure order.

The licensing authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the closure order.

Appeal may be made to the Crown Court against:

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order; or
- d) a decision not to make a discharge order.

Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeal a) and b) may be made by any person who was issued with an order.

Appeal c) and d) may be made by the Licensing Authority.

A person is guilty of an offence, if they allow the premises to be open in contravention of a closure order, without reasonable excuse, or fails to comply with, or contravenes a closure order.

An authorised officer of the Authority may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary.

An authorised officer must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

## **Enforcement**

In order to ensure compliance with the legislation and any conditions imposed, licences will be inspected at least once a year.

## **Offences & Penalties**

The following paragraphs are only indicative of the general offences and penalties. Independent legal advice should be sought for individual cases.

Offence relating to scrap metal dealing are described below under the relevant piece of legislation

## Table of Offences – Scrap Metal Dealers Act 2013

Section	Offence	Maximum Penalty
1	Carrying on the business as a scrap metal dealer without a licence	Level 5
8	Failure to notify the authority of any changes to details given with the application	Level 3
10	Failure to display site licence or collector's licence	Level 3
11 (6)	Receiving scrap metal without verifying persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued.	Level 5
15 (3)	Failure to keep information and records for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

### Current levels of fines:

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - £5,000

### Offences by Bodies Corporate

Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent or connivance of a director, manager, secretary or similar officer, or
- b) to be attributable to any neglect on the part of any such individual

the individual as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

Where the affairs of the body corporate are managed by its members, any acts or omissions committed by that member will be treated as though that member were a director of the body corporate.