



Stockton-on-Tees
BOROUGH COUNCIL

Scrap Metal Dealers Act 2013

Licensing Policy

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Introduction

1. The theft of metals from businesses and community-based buildings has led to significant site and structural damage, loss of reputation and loss of business. It also has significant health and safety implications for residents and employees. In order to tackle these issues a new licensing regime has been introduced.
2. The Scrap Metal Dealers Act 2013 replaces the previous registration system for scrap metal dealers created by the 1964 Scrap Metal Dealers Act. In its place it establishes a new licensing regime. This scheme will be run and administered by local authorities, and is based on the legislation for alcohol licences created in the 2003 Licensing Act. Every scrap metal dealer will be required to have a licence, and operating without one will be a criminal offence. Under the new legislation the definition of scrap metal dealers is extended so it now includes motor salvage operators, and the provisions in the Vehicles (Crime) Act 2001 under which they operate will end once the new Act comes into effect. Whereas under the 1964 Act councils have to register anyone who notifies them that they are operating as a scrap metal dealer, councils will be able to refuse to grant a licence where the applicant is judged not to be a suitable person to operate as a scrap metal dealer. This ability to regulate who is, and who is not, a scrap metal dealer is designed to improve the operating standards of those dealers who do not operate in the same way as the majority of reputable dealers. The transition from the requirement on dealers to register to holding a licence provides an opportunity to ensure that those dealers who have been operating illegally are no longer able to do so.
3. The new regime started 1 October 2013 with a transition period running until 1 December 2013.
4. This policy sets out how the Council will process, assess, and decide licence applications.

Licences

5. In order for anyone to carry on business as a scrap metal dealer they have to have a licence. These licences will last for three years. Trading without a licence is a criminal offence.
6. If convicted of trading without a licence an offender can be fined. The fine will be at Level 5 on the standard scale. Amendments to the size of the fines that courts can impose in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 mean that when the provisions come into force, a fine at that level will be unlimited.
7. There are two types of licence specified in the Act:
 - **Site licence**
All the sites where a licensee carries on business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. This licence allows the licensee to transport scrap metal to and from those sites from any local authority area.
 - **Collector's licence**
This allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.
8. A dealer can only hold one type of licence in any one local authority area. However a dealer can decide whether they are going to have a site or a mobile licence in any one area. Dealers cannot hold both a site and mobile collector's licence from the same council (s2(9)).

Timetable for Transition

9. The licensing regime created by the Scrap Metal Dealers Act 2013 will commence on 1 October 2013, with a transition period until 1 December 2013. This allows any dealer currently registered under the 1964 Scrap Metal Dealers Act, or a motor salvage operator already registered under the 2001 Vehicles (Crime) Act, to continue to trade as they are deemed to have a licence under the 2013 Act until the council grants a licence or sends the dealer notice of its decision to refuse a licence, provided they submit an application on or before the 15 October. If they do not submit an application their deemed licence will lapse on 16 October. If they wish to trade in the future they would then need to submit a new application, but would not be able to legally trade until a licence had been granted.
10. Where an applicant is not registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 before 1 October then they will not be able to trade legally after 1 October until a licence has been issued. Full enforcement of the provisions in the 2013 Act will commence from 1 December 2013.
11. The exception to this will be the ban on using cash to pay for scrap metal which will come into force on 1 October 2013.

Definitions

12. The 2013 Act defines a scrap metal dealer, a site, a mobile collector and scrap metal. A dealer is defined under s21(2) of the Act as someone carrying on a business which consists wholly or in part of buying or selling scrap metal, whether or not the metal is sold in the form in which it is bought. However a manufacturing business that sells scrap metal created only as a by-product of the processes it uses, or because it has a surplus of materials, is not caught by this definition (see s21(3)).
13. Where the sale of the metal is incidental to the main type of work or business undertaken then a licence will not be needed. In the case of most tradesmen such as plumbers and electricians and some skip hire firms the sale of scrap metal is not an integral part of their business and they will not require to be licensed as a scrap metal dealer. Where though there is a reasonable expectation, for example, that the material deposited in the skip will contain significant amounts of scrap metal, such as skips used where there is demolition activity or ones sited at engineering manufacturing establishments and plumbers' yards, then the skip hire company will generally require a scrap metal dealers licence.
14. In considering whether a scrap metal dealers licence is needed, we will consider the following issues:
 - Is the applicant a business?
 - Is the applicant associated with any other business that might buy or sell metal (eg subsidiaries, businesses run by the same people, companies within a group etc)?
 - Do they buy scrap metal in any form as part of the business?
 - Is the purchase or sale of scrap metal an integral part of the business? Is the buying or selling of metal advertised by the business, including on the internet?
 - Is any advertising of metal sales etc done separately from the main part of the business?
 - Is the metal sold as a by-product from a manufacturing process?
 - What happens to any waste metal that is collected by the business?
15. Dealers under the legislation are further divided into two categories based on the two different types of licence:
 - those operating from fixed sites; and
 - those who are mobile collectors.
16. A collector is defined (by s22(4)) 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.
17. A site is defined in the Act (s22(9)) as 'any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there)'. Due to the wording of the definition this means that someone who trades in scrap metal and is thus defined as a dealer under s21(2) will need a site licence for their office even if they do not operate a scrap metal store or yard.
18. A dealer also includes someone carrying on business as a motor salvage operator. This is defined as a business that:
 - wholly or in part recovers salvageable parts from motor vehicles for reuse or resale, and then sells the rest of the vehicle for scrap
 - wholly or mainly involves buying written off vehicles and then repairing and selling them off
 - wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and selling them off.

Scrap Metal

19. Scrap metal itself 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. This definition is not intended to include second hand goods, but these could be caught by the definition if they are made from or contain metal that is broken or worn out. It will be a question in each case as to whether items fall within the definition. The definition does however include platinum and a range of other rare metals now being used in catalytic converters although gold or silver are not included in the definition of scrap metal. Jewellers or businesses trading in second hand gold and silver jewellery or products are not therefore caught by this definition.

The Licensing Process

20. The Council's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of sub-committees and by officers acting under the delegated authority of the Committee. Further details can be found in the table of delegation of licensing functions at Appendix 1.

21. Where there are no areas of contention it is considered that many functions will be largely administrative. In the interests of efficiency and effectiveness officers will for the most part carry out these functions.

Licence Applications

22. The following documents must be submitted in person or post for new applications.

- Application form, this should be filled out in the name of the person who will hold the scrap metal dealer's licence but you also need to include details of any directors or partners involved in the business and the site managers at each site you intend to operate.
- Basic Disclosure Certificate from Disclosure Scotland – a certificate is required for each person named on the application form.
- The appropriate fee

23. Applications submitted without all of the required documents and the fee will be returned to the applicant.

Assessing the Suitability of Applicants

24. Section 3 of the Act states that a council must not issue a licence unless it is satisfied the applicant is a suitable person to carry on business as a scrap metal dealer – the 'suitability test'. In the case of a partnership this means assessing the suitability of each of the partners in the partnership, while in the case of a company it means assessing the suitability of any directors, company secretaries or shadow directors.

25. In assessing an applicant's suitability we will consider any information we consider is relevant. Factors we will consider when assessing suitability include:

- Whether the applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action

- Whether the applicant has previously been refused a scrap metal dealers licence or an application to renew a licence has been refused
 - Whether the applicant has previously been refused a relevant environmental permit or registration
 - Whether the applicant had previously held a scrap metal dealers licence that has been revoked.
 - Whether the applicant has been convicted of an offence involving dishonesty or violence.
26. It is an offence under paragraph 5 of Schedule 1 for an applicant to make a false statement or recklessly make a statement which is false in a material way.

Basic Disclosure Certificates

27. As part of the application process applicants must provide a Basic Disclosure certificate with the application form. Applicants should apply for a Basic Disclosure certificate before submitting an application. The Basic Disclosure certificate remains the property of the applicant (this means you can use it for other applications to other local authorities if required).
28. The Basic Disclosure certificate contains details only of any unspent convictions as of the date the certificate is issued. It can be applied for online or by completing a form, and paying a fee of £25. Disclosure Scotland will usually be able to provide a certificate with the results of the disclosure application within 14 days so there should not be any significant delay in the application process. The Basic Disclosure process can also be used for applicants living overseas (such as directors of multinational companies based abroad) to see whether they have any unspent convictions for relevant offences in this country. You can apply online at for a "Basic Disclosure" at www.disclosurescotland.com/
29. Any certificate submitted in support of an application should be dated no longer than 1 month before the date an application is received by us.
30. In assessing whether the applicant is a fit and proper person to hold a licence, we will consider each case on its merit and will have regard to the adopted guidelines on the relevance of convictions. These are attached at Appendix 2.

Consultation

31. We will also consult on new applications with the following organisations:
- Cleveland Police
 - Stockton Borough Council Planning Services
 - Stockton Borough Council Neighbourhood Enforcement
 - Stockton Borough Council Environmental Health
32. We will also check the Environment Agency/Natural Resources Wales public registers to see if they have taken any relevant enforcement action against new applicants.

Decisions and Representations

33. Where no representations are received and an applicant is considered to meet the fitness test, a licence will be issued.
34. If having conducted an initial assessment of an applicant's suitability the council is minded to

refuse the application, the relevant officer has to write to the applicant to let them know.

35. We will give applicants the opportunity to make representations within a specified time period or let us know they wish to do so.
36. Where an applicant does not make any representations, or does not say that they wish to in the specified time period, then the council can refuse the application or revoke or vary the licence.
37. Where an applicant makes representations, the council will hold a hearing to consider them.

Hearings

38. An application hearing will be heard where representations have been received and not withdrawn and where there is information that suggests that an applicant may not be suitable to hold a scrap metal dealers licence.
39. Hearings will also be held to consider information that suggests current licence holders may not be suitable to hold a licence.
40. Applicants/licence holders will be permitted to make oral representations at the hearing.
41. In the event the committee refuses, revokes or varies an application or licence then it will provide written reasons for doing so.

Appeals

42. Appeals against a decision by the council to refuse an application, to impose a condition on the licence or to revoke or vary the licence are to the magistrates' court.
43. An applicant or licensee has 21 days from the day on which they were given notice of the decision in which to appeal. The magistrates' court then has the power to confirm, vary or reverse the council's decision and issue any directions it considers appropriate having regard to the Act.

Including Conditions in a Licence

44. Conditions can be imposed where the applicant or any site manager has been convicted of a relevant offence, or, where the council is revoking a licence when a condition can be imposed, until the revocation comes into effect.
45. We are able to impose one or both of two conditions. These conditions specify that:
 - the dealer can receive scrap metal only between 9.00am and 5.00pm 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.

Varying a licence

46. Dealers can apply to vary a licence from a site licence to a collector's licence or vice versa. A variation in a site licence has to be applied for where there are any changes relating to the name of the licensee on the licence; any change in the sites from which the licensee is authorised to carry on business; and any change in the details of a site manager.

47. In the case of a collector's licence a variation has to be applied for where there is a change in the details relating to the name of the licensee.
48. Variations related to changes in the name of the licensee on the licence for a site or a collector's licence cannot be used to affect a transfer of the licence from one person to another. Anyone wanting to hold a licence to be a scrap metal dealer has to apply for their own licence, they cannot take over an existing licence. This includes the situation where one business buys another business.

Notifications to the National Register

49. The Scrap Metal Dealers Act creates a requirement for a register of scrap metal dealers licences. The Environment Agency must maintain a register of scrap metal licences issued in England, and Natural Resources Wales must maintain a register of scrap metal licences issued in Wales. Both registers will be open to the public.
50. Under the provisions of the Act when councils issue a licence they are obliged to pass on certain information to the Environment Agency/NRW to enter on the register. The information that has to be passed on about each licence is:
 - the name of the council which issued the licence
 - the name of the licensee
 - any trading name under which the licensee conducts business as a dealer
 - the address of any site identified in the licence
 - the type of licence (site or mobile)
 - the date the licence expires.

Application Fees

51. Application fees will be reviewed from time to time and applicants should check the Licensing Website (<https://www.stockton.gov.uk/community-safety/licensing/scrap-metal-dealers-licence/>) for the latest fees before making an application.

Appendix 1 Table of Delegations

Matter To Be Dealt With	Full Council	Licensing Committee/ Sub-Committee	Officers
Final approval of five year licensing policy	X		
Fee Setting - when appropriate			X
Application for dealers and collectors licences		Where representations have been received and not withdrawn	Where no relevant representations received/representations have been withdrawn and applicant satisfies the fitness test
Application for a variation to a licence		Where relevant representations have been received and not withdrawn	Where no relevant representations received/representations have been withdrawn
Cancellation of licences			X
Appointment of authorised persons			X
Authority to institute legal proceedings in respect of offences under the Act			X
Authority to provide information to the Environment Agency			X

Appendix 2 Guidance on Relevance of Convictions

1. Stockton on Tees Borough Council use the following guidelines to make fair and consistent decisions when considering relevant criminal convictions, cautions, reprimands, warnings, information or complaints.

General

2. Each case will be decided on its merits. The Council will endeavour to make consistent decisions but is not bound by or obliged to follow previous decisions made by them in relation to the holders of licences.
3. It may be appropriate to depart from the general policy in some cases, for example, situations where the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account.
4. The guidelines are not an attempt to define what a fit and proper person is.
5. A list of relevant offences has been prescribed by the Secretary Of State in relation to scrap metal licences. "Relevant Offence" means any offence detailed below; and includes an offence of –
 - a) attempting or conspiring to commit any offence falling within the list below;
 - b) inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the list below, and
 - c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any offence falling within the list below.
6. "Relevant Enforcement Action" – a person is the subject of relevant enforcement action if –
 - a) the person has been charged with an offence specified in the list below, 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 (1) has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

Relevant Offences

Primary Legislation

- a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- c) An offence under section 110 of the Environment Act 1995
- d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990
- e) An offence under section 9 of the Food and Environment Protection Act 1985
- f) An offence under section 1 of the Fraud Act 2006, 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
- h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- i) Any offence under the Scrap Metal Dealers Act 1964
- 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, 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
- m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991.

Secondary Legislation

- a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- d) Any offence under the Hazardous Waste (Wales) Regulations 2005
- e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- i) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

In addition a conviction, caution, reprimand or final warning for offences involving violence or dishonesty which are less than 3 years old from the date of application will be included in the consideration of whether the applicant is a suitable person to hold a scrap metal dealers licence.