

Scrap Metal Dealers
Policy Document

December 2014

1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to hold a Scrap Metal Dealers Licence.
- 1.2 The aims of the policy are to ensure the following :
- a person licensed as a scrap metal dealer is a fit and proper person
 - the process Denbighshire County Council follow to licence a scrap metal dealer is transparent, fair and proportionate
 - the public including vulnerable persons are safeguarded from dishonest persons
- 1.3 The power of issue, review and enforcement of the licences are vested in Cabinet and duly authorised officers from the Planning and Public Protection Department.
- 1.4 This policy provides guidance to any person with an interest in the business of Scrap Metal Dealers and Motor Salvage Operators, in particular, but not exclusively:
- Applicants for Scrap Metal Dealers Licences
 - Existing licensed Scrap Metal Dealers/Motor Salvage Operators
 - * Licensing Officers
 - * Members of Cabinet (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions
- 1.5 Where licensing officers have delegated powers they will utilise these guidelines when making a decision to grant, refuse, revoke or vary a licence. Whilst Officers and the Council's Cabinet will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, Cabinet/Officer may depart from the guidelines.**

2.0 Legislation and Policy Guidance

- 2.1 In assessing an application for a Site Licence or a Collector's Licence the Council will have regard to the following legislation and guidance:
- Scrap Metal Dealers Act 2013
 - Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

- Scrap Metal Dealers Act (2013) (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013
- The Scrap Metal Dealers Act 2013 Determining suitability to hold a scrap metal dealer's licence –Home Office
- The Scrap Metal Dealers Act 2013 Supplementary Guidance – Home Office
- Local Government Association Guide to the Scrap Metal Dealers Act 2013

2.2 The Scrap Metal Dealers Act 2013 replaces the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and establishes a new licensing regime. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence. The definition of scrap metal dealers now also incorporates motor salvage operators.

2.3 A scrap metal dealer is defined under the Act as someone whose business 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.

2.4 In order for anyone to carry on business as a scrap metal dealer they have to have a licence. Licences last for 3 years. There are two types of licences:

> **Site licence** – all sites where a licensee carries on a business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. The licence allows the licensee to transport scrap metal to and from those sites from any local authority area.

> **Collectors licence** – this allows the licensee to operate as a collector in the area of the issuing licensing authority only. It does not allow the collector to operate in any other local authority, so a separate licence has to be obtained from each council area 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.

2.5 A dealer can only hold one type of licence in any one local authority area. They cannot hold both a site and mobile collectors licence from the same Local Authority. A person may hold more than one licence issued by different Authorities.

3.0 Application Procedure:

3.1 When the Council is considering an application, it will have regard to:

- The Scrap Metal Dealers Act 2013;
- Any supporting regulations

- Guidance issued by the Secretary of State
- This Statement of Licensing Policy

3.2 This does not undermine the rights of any person to apply under the 2013 Act for a licence and have the application considered on its individual merits.

3.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the necessary information.

3.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant.

3.5 The application must be accompanied by the fee, set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

3.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may refuse the application as not valid.

3.7 Where the Council is satisfied that an applicant is suitable, it must issue a licence.

4.0 Conditions

4.1 The ability to impose conditions is limited, conditions can only 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. One or both of the following conditions can be imposed, the conditions specify that:

- the dealer can receive scrap metal only between 09:00 and 17:00
- 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.

5.0 Right to make representation

5.1 Where it is proposed to refuse an application or vary/revoke a licence, the applicant or licensee will be notified as soon as is reasonably practicable what the council proposes and the reasons for it.

5.2 The notice will give the applicant/licensee the opportunity within 14 days to either :

- a) make representations **or**
- b) inform the Authority of their intention to do so

- 5.3 If the applicant/licensee informs the Authority they wish to make representations then they will be permitted a further 14 days to do so. These representations will then be heard in a Licensing Hearing.
- 5.4 If the applicant/licensee informs the Authority they wish to make oral representations then these will be heard at a Licensing Hearing within 21 days.
- 5.5 If at the Hearing the Council refuses the application the applicant will be given a notice of the decision which includes information on the grounds for the decision. The notice will include information about the appeal process.

6. Variation of Licence

- 6.1 An applicant can, on application, apply to the Council to vary licence by changing it from one type to another. The variation application must be made to reflect changes to:
- Site licence – name of licensee, the sites, site manager
 - Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

- 6.2 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

7. Revocation of Licence

- 7.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 7.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
- 7.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 7.4 A revocation or variation under this section comes into effect when no appeal under section 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 7.5 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 7.2; or

b) that a variation under this section comes into effect immediately.

8.0 Appeals

8.1 Appeals against a decision taken by the Council to refuse an application or renewal, revoke a licence or condition or vary the licence are to the Magistrates' Court. They must be made within 21 days of the applicant being given notice of the decision.

8.2 On an appeal under this section, the Magistrates' Court may

- a) confirm, vary or reverse the Councils' decision and
- b) give such directions as it considers appropriate having regard to the provisions of the Scrap Metal Dealers Act 2013.

8.6 The Council must comply with any direction given by the Magistrates' Court.

8.7 The Council need not comply with any such directions

- a) until the time for making an application under section 111 of the Magistrates' Court Act 1980 (application by way of case stated) has passed, or
- b) if such an application is made, until the application is finally determined or withdrawn.

9. Register of Licences

9.1 National Resource Wales must maintain a register of scrap metal licences issued by authorities in Wales.

9.2 Each entry must record:

- 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 the site identified in the licence;
- e) the type of licence; and
- f) the date on which the licence is due to expire.

9.3 The registers are to be open for inspection to the public.

10. Notification Requirements

10.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any

changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

- 10.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.
- 10.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.
- 10.4 An authority must notify the National Resource Wales, of –
- a) any notification given to the authority under section 11.2 or 11.3;
 - b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
 - c) any revocation of the authority of a licence.
- 10.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.
- 10.6 Where the authority notifies the National Resource Wales under subsection 11.4, the body must amend the register under section 10 accordingly.

11.7 Display of Licence

- 11.1 Once granted a copy of a site licence must be displayed at each site identified in the licence in a prominent place in an area accessible to the public.
- 11.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it to be easily read from outside the vehicle.

12. Verification of Supplier's Identity

- 12.1 Before receiving scrap metal the dealer must verify the person's full name and address, by reference to documents or data from a reliable and independent source.
- 12.2 If suitable verification is not obtained the scrap metal dealer or site manager, or any person who has been delegated responsibility by the dealer or site manager shall be guilty of an offence

13. Payment for Scrap Metal

- 13.1 A scrap metal dealer must only pay for scrap metal by either:
- a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or

b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

13.2 Payment includes payment in kind – with goods or services.

14. Records: Receipt of Metal

14.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- 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 delivered by;
- d) full name and address of person delivering it;
- e) full name of the person making payment on behalf of the dealer.

14.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

14.3 If payment is made via cheque, the dealer must retain a copy of the cheque.

14.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

15. Records: Disposal of Metal

15.1 The Act regards the metal to be disposed of:

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

15.2 Where the disposal is in the course of business under a site licence, the following must be recorded:

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

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

- a) the date and time of the disposal;
- b) if to another person, their full name and address.

16. Records: Supplementary

- 16.1 The information in sections 15 and 16 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.
- 16.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 16.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of
- 16.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:
- a) the scrap metal dealer;
 - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
 - c) any person who, under arrangements made by a person within paragraph (a) or
 - d) has responsibility for fulfilling the requirement.
- 16.5 It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person
- a) made arrangements to ensure that the requirement was fulfilled, and
 - b) took all reasonable steps to ensure that those arrangements were complied with.

17. Compliance

- 17.1 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers without notice to the site manager. However the Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 17.2 Compliance will be based on the principles that businesses should:
- Receive clear explanations from regulators of what they need to do and by when;
 - Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
 - Receive an explanation of their right of appeal.
- 17.3 The council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law.

However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

18. Closure of Unlicensed Sites

18.1 Interpretation:

A person with an interest in a premises is the owner, leaseholder or occupier of the premises. Local authority powers are exercisable only in relation to premises in the authority's area.

18.2 Closure Notice

Not applicable if the premises are residential premises. A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

A 'closure notice' may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice must be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

18.3 Cancellation of Closure Notice

A constable or an officer of the local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given.

18.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority may make a complaint to the justices of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable

likelihood that the premises will be so used in the future. The justice may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

18.5 Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect. As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

18.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or local authority is satisfied that the need for the order has ceased a certificate may be made. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

18.7 Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

18.8 Appeal

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;
- d) a decision not to make a discharge order.

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made. An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under b) and c) may be made by a constable or the local authority.

18.9 Enforcement of Closure Order

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

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

APPENDIX 1 -

3.0 Suitability of Applicant

- 3.1 The Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer; and may not issue a licence unless satisfied the applicant is suitable.
- 3.2 When assessing an application for a Site Licence or for a Collector's Licence the Council will consider the suitability of :
- the individual applicant
 - each partner within a partnership
 - any director(s), secretary(s) or shadow director(s) of a company.
- 3.3 As well as its policy and statutory guidance, the Council, when determining suitability, may have regard to any other information it considers relevant, in particular, but not limited to:
- Scrap Metal Act 2013 – Section 3 (2)
- (a) whether the applicant or site manager has been convicted of any relevant offence; (see Appendix 1)
 - (b) whether the applicant or site manager has been the subject of any relevant enforcement action; (see Appendix 1)
 - (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
 - (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
 - (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
 - (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- 3.4 In assessing an applicant/licensee's suitability the Council can also consider any other information it considers relevant, the Council has considered that this will include the following :
- the applicant's behaviour in the operation of their business
 - unspent convictions, cautions on the basic disclosure relating to violence, dishonesty or theft (including non-metal theft)
 - relevant, proportionate information provided by another agency which suggests that an applicant represents a **substantial risk to the public**.

- 3.5 In determining suitability the Council will require the applicant/licensee to produce a Basic Disclosure Certificate. Where the applicant has lived previously outside the United Kingdom the Council will not consider the grant of a licence until a relevant check has been completed with the relevant country or countries and details of such check submitted to the Council.
- 3.6 This Council considers a Basic Disclosure Certificate to be only valid for 3 months prior to the date the application is made.
- 3.7 A single relevant conviction may not automatically result in the Council refusing to grant a licence. The Council will take into account when the offence was committed, the nature of the offence or enforcement action, the gravity of the offence or enforcement action, along with any other relevant information.
- 3.8 The Council may consult other persons regarding the suitability of an applicant/licensee, including, but not limited to:
- (a) any other local authority;
 - (b) departments within Wrexham County Borough Council
 - (b) the Environment Agency;
 - (c) the Natural Resource Body for Wales;
 - (d) the Health and Safety Executive
 - (e) North Wales Police force;
- 3.9 Notwithstanding the existence of this policy, the Council, when determining a person's suitability for the purposes of the Act, will treat each case on its own individual merits

APPENDIX 2

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

Made - - - 6th September 2013

Laid before Parliament 10th September 2013

Coming into force - - 1st October 2013

The Secretary of State, in exercise of the powers conferred by sections 3(3)(b) and (c) and 20(4) of the Scrap Metal Dealers Act 2013(a) makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 and shall come into force on 1st October 2013.

(2) In these Regulations—

“environment-related offence” means an offence which relates to the transportation, shipment

or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water

or land which may give rise to any harm;

“harm” means:

(i) harm to the health of human beings or other living organisms;

(ii) harm to the quality of the environment;

(iii) offence to the senses of human beings;

(iv) damage to property; or

(v) impairment of, or interference with, amenities or other legitimate uses of the environment.

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(a) (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 Page **12** of **13**

(b) an environmental permit granted in respect of the person under the Environmental

Permitting (England and Wales) Regulations 2010 **(b)** has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

Home Office *Damian Green*

6th September 2013 Minister of State

SCHEDULE Regulation 2

PART 1

Primary Legislation

(a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989**(c)**

(b) An offence under section 170 or 170B of the Customs and Excise Management Act

1979**(d)**, where the specific offence concerned relates to scrap metal

(c) An offence under section 110 of the Environment Act 1995**(e)**

(d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990**(f)**

(e) An offence under section 9 of the Food and Environment Protection Act 1985**(g)**

(f) An offence under section 1 of the Fraud Act 2006**(h)**, 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**(i)**

(h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002**(j)**

(i) Any offence under the Scrap Metal Dealers Act 1964**(k)**

(a) 2007 c.27.

(b) S.I. 2010/675. Environmental permits can be granted under regulation 13, and revoked under regulation 22.

(c) 1989 c.14.

(d) 1979 c.2. Section 170B was inserted by the Finance (No 2) Act 1992 (c.48), section 3, Schedule 2, paragraph 8.

(e) 1995 c.25.

(f) 1990 c.43. Section 34B was inserted, in relation to England and Wales, by the Clean Neighbourhood and Environment Act

2005(c.16), section 46.

(g) 1985 c.48.

(h) 2006 c.35.

(i) 2012 c.10. Section 146 is to be repealed by section 19(1)(f) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(j) 2002 c.29.

(k) 1964 c.69. This Act is to be repealed by section 19(1)(a) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(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**(a)**, 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**(b)**

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

PART 2

Secondary Legislation

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

Regulations 2007**(d)**

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

Regulations 2010**(e)**

(c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005**(f)**

(d) Any offence under the Hazardous Waste (Wales) Regulations 2005**(g)**

(e) An offence under regulation 17(1) of the Landfill (England and Wales)

Regulations

2002**(h)**

(f) Any offence under the Pollution Prevention and Control (England and Wales)

Regulations 2000**(i)**

(g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007**(j)**

(h) Any offence under the Transfrontier Shipment of Waste Regulations 1994**(k)**

(i) Any offence under the Transfrontier Shipment of Waste Regulations 2007**(l)**

(j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006**(m)** Page 13 of 13

(k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011**(n)**.

(a) 1968 c.60.

(b) 2001 c.3. Part 1 of this Act is to be repealed by section 19(1)(d)(i) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.

(c) 1991 c.57. Section 85 was repealed by S.I. 2010/675 regulation 107 and Schedule 26, Part 1 paragraph 8(2)(a).

(d) S.I. 2007/3538. Regulation 38 was revoked by S.I. 2010/675, regulation 108(1) and Schedule 27.

(e) S.I. 2010/675.

(f) S.I. 2005/894.

(g) S.I.2005/1806.

(h) S.I.2002/1559. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.

(i) S.I. 2000/1973. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.

(j) S.I. 2007/871

(k) S.I. 1994/1137. These Regulations were revoked by S.I. 2007/1711, regulation 60(1)(a) and (2).

(l) S.I. 2007/1711.

(m) S.I. 2006/3289.

(n) S.I. 2011/988.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe relevant offences and relevant enforcement action for the purposes of section 3(3)(b) and (c) of the Scrap Metal Dealers Act 2013. Pursuant to section 3(2) of that Act,

where a local authority is processing an application for a scrap metal licence and is evaluating whether the applicant is a suitable person to carry on business as a scrap metal dealer, the local authority may have regard to whether the applicant or any site manager has been convicted of a relevant offence, or has been the subject of any relevant enforcement action.

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DRAFT

COMPLIANCE - RIGHT OF ENTRY

1. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.

2. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
a) reasonable attempts to give notice have been made and failed,

or

b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.

3. (1) and (2) above do not apply to residential premises.

4. A constable or an officer of the Council is not entitled to use force to enter a premises in the exercise of the powers under sections (1) and (2) above.

5. A justice of the peace may issue a warrant authorising entry to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:

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

6. Premises are within this section if:

- a) the premises are a licensed site, or
- b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business

7. The warrant is a warrant signed by the justice which:

- a) specifies the premises concerned, and
- b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.

8. A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.

9. A constable or an officer of the Council may:

- a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;

b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;

c) take copies of or extracts from any such records.

10. Section 11 below applies if a constable or an officer of the Council who seeks to exercise powers under this section in relation to any premises.

11. If the owner, occupier or other person in charge of the premises requires the officer to produce:

a) evidence of the officer's identity, or

b) evidence of the officer's authority to exercise those powers the officer must produce that evidence.

12. In the case of an officer of the Council, the powers under this section are exercisable only in relation to premises in the area of the authority.

Delegation of Authority

- 1 Decisions on licensing matters will be taken in accordance with the approved scheme of delegation in Appendix 5 aimed at underlining the principles of timely, efficient and effective decision making.
- 2 This scheme will be subject to amendment from time to time as shown in the Council's Constitution.

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