



Home Office

Scrap Metal Dealers Act 2013

Supplementary guidance

Issued October 2013

Introduction

The purpose of this document is to provide guidance on commonly raised issues in relation to the Scrap Metal Dealers Act 2013 which can be found using the following link:

<http://www.legislation.gov.uk/ukpga/2013/10/enacted>

This guidance document represents the Home Office's interpretation of the Scrap Metal Dealers' Act 2013 at the point that it is published. However, ultimately, it will be for the courts to interpret the meaning of the legislation, and their construction will be binding.

Useful documents

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013:

<http://www.legislation.gov.uk/uksi/2013/1966/made>

Scrap Metal Dealers Act 2013 Licence fee charges:

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/2258/made>.

The Scrap Metal Dealers Act (Prescribed documents and information for verification of name and address) Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/2276/contents/made>.

The Scrap Metal Dealers Act 2013: Determining suitability to hold a scrap metal dealer's licence (statutory guidance for local authorities in England and Wales):

<https://www.gov.uk/government/publications/determining-suitability-to-hold-a-scrap-metal-dealers-licence>

Local authorities may wish to visit the Local Government Association's Knowledge Hub (<https://knowledgehub.local.gov.uk/>) and join the Tackling Metal Theft group which will provide access to the latest advice about the licensing regime.

Useful contacts

- British Metals Recycling Association Tel: 01480 455249 admin@recyclemetals.org
<https://www.recyclemetals.org/>
- Motor Vehicle Dismantlers' Association of Great Britain
Tel: 01543 254254
mail@mvda.org.uk
www.mvda.org.uk
- British Vehicle Salvage Federation
Tel: 01303 814325
email@bvsf.org.uk
<http://www.bvsf.org.uk/cms/>

1. Timetable for licence applications and transitional arrangements

- 1.1 Scrap metal dealers can apply for a scrap metal dealer's licence from 1 October 2013.
- 1.2 If a person is a scrap metal dealer and was registered under the Scrap Metal Dealers Act 1964 or Vehicles (Crime) Act 2001 (as a motor salvage operator) they need to submit an application on or before **15 October 2013** and they will be deemed to have a temporary licence which is valid until a licence decision is issued. We recommend that local authorities issue a formal licence decision by **1 December 2013**. If scrap metal dealers were not previously registered with the local council under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 they must submit an application and wait for a licence to be issued before they can trade legally.
- 1.3 Local authorities will complete checks to assess applicant's suitability to hold a licence between 15 October and 1 December (the date by which we recommend a formal licence decision should be issued).
- 1.4 If a scrap metal dealer was previously registered under the Scrap Metal Dealers Act 1964 or Vehicles (Crime) Act 2001 and does not submit an application on or by 15 October their deemed licence will lapse on 16 October. 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 again.
- 1.5 A local council can impose conditions on a deemed temporary licence pending an appeal against the refusal of a licence.
- 1.6 The transitional arrangements are set out in 'The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013' which can be found at: <http://www.legislation.gov.uk/ukSI/2013/1966/made>. This Order also sets out when each of the provisions within the Act will come into force.

2. Scrap metal dealer licences

- 2.1 Section 1 (1) of the Act states that *"No person may carry on business as a scrap metal dealer unless authorised by a licence under this Act (a "scrap metal licence")".* Section 21 states that a person carries on business as a scrap metal dealer if a person *'carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or carries on business as a motor salvage operator (so far as that does not fall within paragraph (a))'*.
- 2.2 From 1 December 2013, scrap metal dealers will be committing an offence if they are operating without a licence and, if convicted, may receive a fine.
- 2.3 It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of a person's business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out. There are many factors a court may consider in reaching its judgment such as the proportion of the business related to scrap metal in terms of value or volume.
- 2.4 An exemption is provided for manufacturers selling scrap only as a by-product or as surplus materials not required for manufacturing.

Motor salvage operators

- 2.5 Motor salvage operators will need to hold a scrap metal dealer's licence which replaces the need to separately register with the local council. The Act repeals Part 1 of the Vehicles (Crime) Act 2001 which is the requirement to register as a vehicle salvage operator.

Agent, broker or trader

- 2.6 A person that buys or sells scrap metal on paper without actually operating a scrap metal site carries on business as a scrap metal dealer and will require a licence. This person will carry out their business as a scrap metal dealer from premises and will need to hold a site licence as a site is any 'premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there) (section 22 (9)).

Skip Hire Company

- 2.7 Skip hire companies may need a scrap metal dealer's licence. It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of the person's business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out.
- 2.8 There are many factors a court may consider in reaching its judgment such as the proportion of the business related to scrap metal in terms of value or volume. If a skip hire company places skips only at businesses/demolition sites to process and sell on the scrap metal this may be considered to be the whole or part of their business and therefore require a licence. However, a company that only rents skips to households where recoverable scrap metal forms a minor part of the skip contents and the company's business that they may not require a licence.

Tradespersons

- 2.9 Tradespersons will not require a scrap metal dealer's licence if buying or selling scrap metal is an incidental function of their business (eg being a plumber or electrician). It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of the person's business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out.

Civic amenity sites

- 2.10 Civic Amenity sites, run by councils or contracted out to others, will not require a licence.

Vehicle collection companies

- 2.11 If a scrap metal dealer (who is a motor salvage operator) holds a site licence and employs or sub-contracts a company to pick up cars on the company's behalf in the course of the business from that site we do not consider that they will need individual mobile collector's licences as this is not regularly engaging in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door but pre-arranged appointments. If the vehicle is to be scrapped, the collection company will be committing an offence if they buy the vehicle for cash and do not verify the name and address of the supplier on behalf of the site licence holder. The scrap metal dealer will be responsible for ensuring that the vehicle collection company complies with these requirements.

3. The application process

- 3.1 Scrap metal dealers can apply for a licence from the licensing authority – in this case the local council. It is a requirement of the EU Services Directive that applicants are able to complete applications online, therefore there should be no requirement for applications to be made in person. For further information scrap metal dealers should contact their licensing council directly; the details can be found using <https://www.gov.uk/find-local-council>. Guidance is provided on how to complete the application form.
- 3.2 The licensing council must not issue or renew a scrap metal licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer. In determining whether the applicant is a suitable person, the council may have regard to any information it considers to be relevant. This may include whether the applicant or site manager has been convicted of a relevant offence or been the subject of relevant enforcement action; any previous refusal of a licence application or renewal; refusal of a relevant environmental permit; revocation of a scrap metal licence or whether the applicant has demonstrated that there will be adequate procedures in place to ensure the provisions of the Act are complied with.
- 3.3 The application form must provide details of any conviction of the applicant for a relevant offence (Schedule 1, Para 2 (1) (j)). To verify the information provided in the application form, local authorities request that applicants submit a Basic Disclosure Certificate for themselves and any person listed on the application form including the site manager (if applying for a site licence), each partner if a partnership, and, if a company, for the director(s), shadow director and company secretary. The Certificate will list unspent criminal convictions. If the Certificate is not submitted, this may delay the consideration of the application.
- 3.4 When assessing the applicant, partnership's or company's suitability to hold a scrap metal dealer's licence, the local council will check each Basic Disclosure Certificate against the list of convictions for relevant offences set out in the Schedule of The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013. The Regulations can be found using the following link: <http://www.legislation.gov.uk/uksi/2013/2258/made>.
- 3.5 Basic Disclosure Certificates can be applied for at <http://www.disclosurescotland.co.uk/>, or Disclosure Scotland can be on 0870 609 6996 for information about other ways of applying. *Please note that Disclosure Scotland will not be able to answer any questions about scrap metal dealer licensing.*
- 3.6 A certified copy¹ of the disclosure certificate will be sufficient to allow for the fact that many applicants will have businesses whose directors' suitability will need to be confirmed in several licensing areas. Councils should clearly set out who they consider to be an appropriate person to certify copies.
- 3.7 Tacit consent should not apply in relation to scrap metal dealer licence applications as there is an overriding public interest in ensuring that the suitability of applicants is assessed before the licence is issued.

¹ Guidance on certifying a document is available at <https://www.gov.uk/certifying-a-document>

4. Scrap metal dealer's licence fee

- 4.1 Each application for a scrap metal dealer's licence will need to be accompanied by a fee (Schedule 1, Para 6 (1)). The fee is set by each local council and is calculated on the basis of recovering certain costs of administering and ensuring compliance with the licensing scheme. The Home Office has issued guidance to local authorities on how to set scrap metal dealer licence fees which can be found at:
<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

5. The licence

- 5.1 Scrap metal licences are valid for three years and there are two types: a site licence or a mobile collector's licence (section 2 (2)). A licence can be issued to an individual, a partnership or a company.

A site licence

- 5.2 A site licence authorises the licence holder to carry on business at any site in the council's area which is identified in the licence (section 2 (3)). A site licence holder can transport scrap metal from third party businesses by arrangement from any other local council area providing it is in the course of the business from that site. A site licence holder cannot regularly engage in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door in the area they are licensed or elsewhere, as this would constitute carrying on a business as a mobile collector. It would be acceptable to collect by arrangement, for instance where a motor salvage operator is asked to transport a damaged vehicle from an address to their site. It is not possible to hold both a mobile collector's licence and a site licence from the same council (section 2 (9)).
- 5.3 If a site licence holder uses self-employed mobile collectors to collect scrap metal which will be processed by the site, each collector would need a mobile collector's licence.

A collector's licence

- 5.4 A collector's licence authorises the licensee to carry on business as a mobile collector in the licensing council's area only (section 2 (5)). A separate collector's licence is needed for each council area that a mobile collector collects scrap metal. A mobile collector can dispose or sell scrap metal in any local council area regardless of whether a collector's licence is held for that area.
- 5.5 A mobile collector will need a licence to buy or sell any scrap metal collected. Even if the material is provided free of charge, a licence is required in order to sell it on. The definition of a scrap metal dealer includes any person who "carries on a business which consists wholly or partly in buying **or** selling scrap metal" (section 21(2) (a)).
- 5.6 A mobile collector's licence will cover any employees working for that business. If they are not employed directly by that mobile collector's business and are self-employed, they will need their own collector's licence even if they are collecting metal from the same van as a person who has a mobile collector's licence.
- 5.7 Mobile collectors and site licence holders need to ensure they comply with relevant environmental legislation and regulation when carrying out their business.

6. Refusal of a scrap metal dealer's licence

- 6.1 If a local council proposes to refuse an application, it must give the applicant notice of the proposed decision. The applicant has 14 days in which to make representations. When the local council has made a final decision, it provides a notice of the decision with reasons. The applicant has 21 days in which to appeal. The local council will advise the applicant how to do this.

7. Displaying a licence

- 7.1 A site licence holder must display a copy of the licence in a prominent place, that is accessible to the public, at each site identified in the licence (section 10 (1) (2)). A scrap metal dealer who holds a mobile collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so as to be read easily by a person outside the vehicle (section 10 (3) (4)). It is an offence not to do this.
- 7.2 A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector. However, there is no legal requirement to do this.
- 7.3 If a mobile collector holds several scrap metal licences, they must ensure that the correct licence is displayed when collecting in the relevant licensing council area. Failure to do so is an offence.

8. Revocation of a scrap metal dealer's licence

- 8.1 Under section 4 of the Act, licences can be revoked by the council for the following reasons:
- it is satisfied that the licensee does not carry on business at any of the sites identified in the licence;
 - that a site manager named in the licence does not act as a site manager at any of the sites identified in the licence;
 - it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.
- 8.2 If a local council proposes to revoke a licence, it must give the licensee notice of the proposed decision. The licensee has 14 days in which to make representations. When the council has made a final decision, it provides a notice of the decision with reasons. The licensee has 21 days in which to appeal. The local council will advise how to do this.

9. Offence of buying scrap metal for cash

- 9.1 From 1 October 2013, cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash under section 12 of the Act and there are no exemptions. Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable. This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer.

Cheque payments

- 9.2 Cheque payments are acceptable within the cashless operating model but this is limited to non-transferable ("crossed cheques"), which are payable to a named individual(s) or firm and not made out to cash. The money will be paid to the intended beneficiary of the cheque.

Electronic transfers

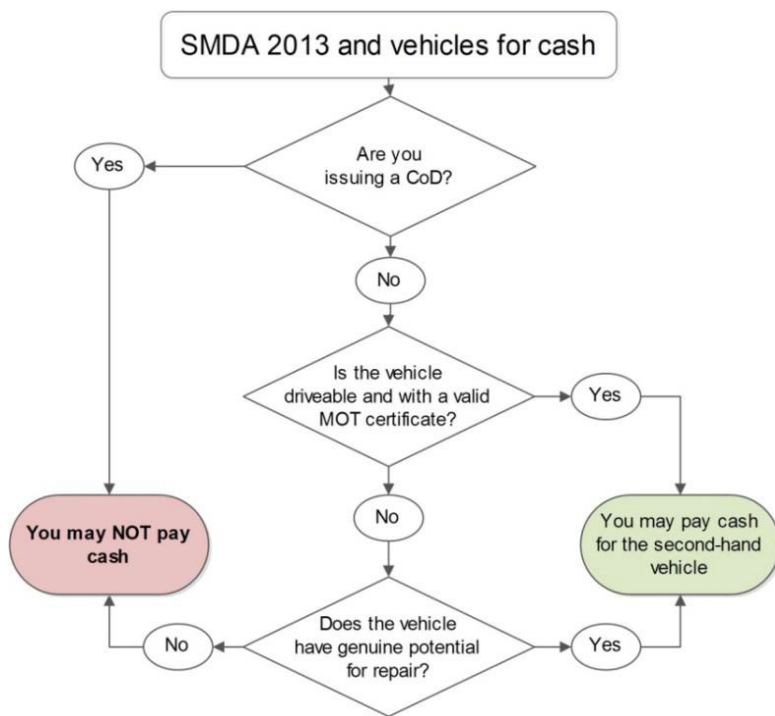
- 9.3 The Act provides a clear focus on electronic transfers of money. This means that non-paper forms of payment such as direct debit, direct credits, BACS payments, faster payments, standing orders, credit transfers, on-line, phone and mobile banking are all acceptable forms of payment within the legislation. These methods of payment all provide the required traceability with a record of the transaction from the payer's account to the payee's account.
- 9.4 Re-loadable Electronic-Money products which are issued to a named account (which verifies the customers identification) and undertakes full customer due diligence and "Know Your Customer" checks under the Money Laundering Regulations are permitted. If scrap metal dealers are unclear whether an E-Money product undertakes full customer due diligence and "know your customer" checks they are strongly advised to make payment by other means.
- 9.5 The payment methods listed above ensure compliance with the Act. The list is not, however, exhaustive. The electronic payments market is rapidly evolving with new products regularly entering the market.

Unacceptable methods of payment

- 9.6 Payment instruments which do not come within the methods above (non-transferable cheque or electronic transfer) and which provide anonymous or near cash alternatives are not acceptable within the legislation. This includes the use of postal orders, foreign currency, electronic vouchers, virtual currencies, mobile phone airtime credits, retailer / supermarket gift cards and vouchers. Single, non-reloadable pre-paid debit cards and reloadable debit cards which are anonymous in nature and require only simplified due diligence under the Money Laundering Regulations are unacceptable.

Buying vehicles for cash

- 9.7 Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear-cut. If a certificate of destruction is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate and that is driveable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.
- 9.8 It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment of cash for scrap metal is alleged. However, the flowchart below should assist in deciding whether it may be permissible to pay cash. Potential buyers should note that, if you elect to pay cash for an un-driveable vehicle that has no valid MOT certificate, you may have to justify your assessment of repairability in court. There needs to be a genuine potential for repair and re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis a buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles. Similar issues may arise for the purchase of other items and appliances.



10. Record keeping requirements

- 10.1 Sections 13-15 of the Act require scrap metal dealers to keep records of metal received and disposed of as well as details of the person it was received from, documents used to verify the name and address of the supplier and the payment. Records must be recorded in a manner which allows the information and scrap metal to be easily identified by reference to each other (section 15 (1)). Records must be kept for three years (section 15 (3)).
- 10.2 The requirement to link recorded descriptions to the scrap metal to which they relate is intended to be proportionate and it may not be possible to go into the same level of detail for larger deliveries. If the scrap is (for example) one washing machine, it would be sensible to say so rather than use a more generic term. The records should contain sufficient identification detail to ensure there is no intention to obscure the identity and type of metal being processed.

11. Scottish scrap metal dealers trading in England and Wales

Mobile collectors

- 11.1 A mobile collector who resides in Scotland but collects scrap metal in England or Wales will need to hold a licence for every local council area in England and Wales where they collect scrap metal. The mobile collector will be subject to the licensing requirements and will need to comply with all the requirements in the Act.

Site licence holders

- 11.2 A scrap metal dealer who has a company that operates a site in Scotland will not require a scrap metal dealer's site licence. However, if that dealer travels to England or Wales to trade they will need to follow the requirements within the Act; that is: they will not be able to buy scrap metal for cash (section 12); will be required to verify the name and address of the supplier before receiving scrap metal (section 11) and will need to keep records of the metal received (section 13).

12. Verifying the name and address of the supplier

- 12.1 Scrap metal dealers must not receive scrap metal from a person without verifying their name and address by reference to documents or other information which are set out in “The Scrap Metal Dealers Act (Prescribed documents and information for verification of name and address) Regulations 2013” at:
<http://www.legislation.gov.uk/ukxi/2013/2276/contents/made>.
- 12.2 A scrap metal dealer must keep a copy of any document used to verify the name and address of the supplier (section 13 (3)). A scrap metal dealer can verify the name and address of repeat suppliers by referring to a copy of the document(s) retained in their records which were used to verify name and address before the first transaction.
- 12.3 In the course of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials and old, broken, worn out or defaced articles have been left on the roadside. However, a mobile collector must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features (section 13 (2) (a)) and the date and time of its receipt (section 13 (2) (b)). If a mobile collector collects scrap metal from a person, they will need to verify the name and address of that person.