



Scarborough Borough Council's Scrap Metal Licensing Guidance Notes

Scrap Metal Dealers Scrap Metal Dealers Act 2013 Guidance Notes

The Scrap Metal Dealers Act 2013 (“the Act”) repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The Act incorporates the separate regulatory scheme for motor salvage operators into this new regime. This is to replace the previously overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme.

1. Do I need a licence to carry on as a scrap metal dealer?

Yes. A person cannot carry on business as a scrap metal dealer unless authorised by a licence issued under the Act.

A person who carries on business as a scrap metal dealer in breach of this is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale. However, amendments to the size of the fines mean that when the new provisions come into force, a fine at that level will be unlimited.

2. What is the meaning of “carrying on a business as a scrap metal dealer”?

A person carries on business as a scrap metal dealer if they:

- (a) Carry on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- (b) Carry on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

For the purposes of (a), a person who manufactures articles is not regarded as selling scrap metal if that person sells scrap metal only as a by-product of manufacturing articles or as surplus materials not required for manufacturing them.

For the purposes of (b), a person carries on business as a motor salvage operator if the person carries on a business which consists:

- (a) Wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
- (b) Wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
- (c) Wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), or
- (d) Wholly or mainly in activities falling within paragraphs (b) and (c).

A “scrap metal dealer” is a person who carries on the business as a scrap metal dealer, whether or not authorised by a licence.

3. What is the definition of scrap metal?

“Scrap metal” includes:

- (a) Any old, waste or discarded metal or metallic material, and
- (b) 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.

But the following are not to be regarded as scrap metal:

- (a) Gold,
- (b) Silver, and
- (c) Any alloy of which 2 per cent or more by weight is attributable to gold or silver.

4. Are there different types of licence available?

Yes. There are two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site).

A site licence which lets you buy and sell scrap metal from a fixed location within the council area. Each site will have a nominated Site Manager included on the licence.

A collector's licence which allows you to travel within the council area to collect scrap metal. You may not take this metal back to a site that you run within the council area in order to sell it.

You may only apply for one type of licence in each council area, but you can apply to include multiple sites in that area on the one licence.

5. Can my company apply for a collector's licence?

Yes. The licence holder would be the company and the company can employ as many staff and vehicles as they want. This would mean you would only need one licence per local authority area provided you issue your staff with a copy of the collector's licence so it is visible from outside the vehicle they are using then you should be operating within the requirement of the legislation.

6. I am a skip hire company or a tradesman and sell scrap metal resulting from my work. Do I need a licence?

The answer will vary according to your individual circumstance but generally where the scale 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, electricians, builders and some skip hire firms, the sale of scrap metal is not an integral part of their business and so will not require to be licensed as a scrap metal dealer.

Where however there is a reasonable expectation that the material deposited in the skip will contain significant amounts of scrap metal, then the skip hire company will generally require a scrap metal dealer's licence.

Each case will be treated on its own merit.

7. What do I have to submit with my application form?

The Act states that a council cannot issue a licence unless it is satisfied that the applicant is a suitable person to carry on the business of a scrap metal dealer.

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.

Therefore as part of the application process you will have to provide a Basic Disclosure certificate (available via www.disclosurescotland.co.uk/apply/individuals/) with the application form for each of the above as is relevant to your circumstances (as well as supplying one for each of the proposed Site Managers). This is to enable us to determine whether or not any person(s) proposed have a relevant conviction. Refusing to provide a Basic Disclosure certificate would be grounds under paragraph 4(2) of Schedule 1 of the Act for the council to decline to proceed with the application.

In the case of a collector's licence, if the applicant is a company this means assessing the suitability of the company employees may also be necessary.

Any Certificate produced will need to be no more than three months old and we will return these to applicants once we have dealt with them.

In assessing an applicant's suitability the council can consider any information it considers relevant. Applicants' behaviour in the operation of their business, such as the fact they have been operating for a considerable period of time without planning permission for their site, or that they are not registered with the Information Commissioner's Office (ICO) under the Data Protection Act, could be factors that are considered.

8. Is there a fee payable for a licence?

Yes. The fee will allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. The current fee is available via the Scarborough Borough Council website or Licensing Services and will be regularly reviewed.

9. What happens if the council proposes to refuse my licence?

We will notify you that we are proposing to refuse your application. We will give you 21 days in which to make representations against this; should you wish to make oral representations then we will arrange for a panel of three individuals to convene to hear these.

If the panel formally refuse your licence you may then appeal to the Magistrates Court, within 21 days. A fee will be payable for this.

10. Once granted how long does the licence last for?

Three years and then lapses; the dealer must renew the licence and it will be their responsibility to do this.

11. What happens if circumstances change once I've been granted a licence?

Under the Act you are required to notify us of any changes which would materially affect the accuracy of the information you provided to us in the making of your original application, this has to be within 28 days of the changes occurring. You can therefore apply to vary your licence (there will be a fee charged for this).

The options for variation are as follows:

1. Change of licensee's details (name or address).
2. Change from a site licence to a collector's licence or vice versa.
3. Changes to the sites licensed (adding, removing or changing details).
4. Change of Site Managers.

Should you cease to carry on the business of a scrap metal dealer you must also inform us of that fact within 28 days.

12. Do I need to display my licence?

Yes. If you have a site licence you must ensure that a copy is displayed at each site identified in the licence in a prominent place in an area accessible to the public.

If you have a collector's licence you must ensure that a copy is displayed on any vehicle that is being used in the course of your business in a manner which enables it to be easily read by a person outside the vehicle.

13. Can I pay cash for scrap?

No. It is an offence under the Act to pay cash for scrap metal. You can only pay via the below methods:

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

The Secretary of State may amend these provisions to permit other methods of payment in which case these Notes of Guidance will be updated accordingly.

14. In operating as a scrap metal dealer what records am I required to keep?

The Act states that a scrap metal dealer must record the following information:

- (a) 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;
- (b) The date and time of its receipt;
- (c) If the metal is delivered in or on a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) of the vehicle;
- (d) If the metal is received from a person, the full name and address of that person;
- (e) If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.

If the dealer receives the metal from a person, the dealer must keep a copy of any document which the dealer uses to verify the name or address of that person.

If the dealer pays for the metal by cheque, the dealer must keep a copy of the cheque.

If the dealer pays for the metal by electronic transfer:

- (a) The dealer must keep the receipt identifying the transfer, or
- (b) If no receipt identifying the transfer was obtained, the dealer must record particulars identifying the transfer.

If a dealer disposes of scrap metal under a site licence they must record the following information:

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

If a dealer disposes of scrap metal under a collector's licence they must record the following information:

- (a) The date and time of the disposal;
- (b) If the disposal is to another person, the full name and address of that person.

The dealer must keep the information and other records mentioned above for a period of 3 years beginning with the day on which the metal is received or (as the case may be) disposed of.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.