



Scrap Metal Dealers Act 2013 – Frequently Asked Questions

1. What is the Scrap Metal Dealers Act 2013?

The Scrap Metal Dealers Act 2013 comes into force on 1st October 2013 and will replace the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002.

Provisions of the new Act include the following:

- The requirement for metal dealers to satisfy their local authority that they are a legitimate trader;
- All sellers of metal must provide verifiable ID at point of sale which is recorded and retained by the dealer;
- A cashless offence will apply to all scrap metal dealers including 'mobile/itinerant collectors' who conduct house to house collections;
- There will be a single national publicly available register of all scrap metal dealers.

2. What type of licence do I need?

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 and will incur a fine.

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 council area.
- **Collector's licence**
This allows the licensee to operate as a collector in the area of the issuing council. It does not allow the collector to operate in any other council 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 council.

A collector's licence can cover multiple people if they are properly employed. Self-employed people would need individual licences, even if they are in the same vehicle as someone with a collector's licence. Each collector would have to display that licence in the vehicle and they would also need to keep separate records.

It should be noted that a dealer can only hold one type of licence in any one council area. They have to decide whether they are going to have a site or a mobile licence in any one area. They cannot hold both a site and mobile collector's licence from the same council

3. What is a scrap metal dealer, what is a site, what is a mobile collector and what is scrap metal?

The 2013 Act defines a scrap metal dealer, a site, a mobile collector and scrap metal.

A **dealer** is defined 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.

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

A **site** is defined 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 section 21(2) will need a site licence for their office even if they do not operate a scrap metal store or yard.

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 re-sale, 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 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.

4. When do I need to apply?

Any dealer currently registered under the Scrap Metal Dealers Act 1964, or a motor salvage operator already registered under the Vehicles (Crime) Act 2001, will be 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 the licence, **provided they submit an application on or before the 15 October 2013**. The council will give the dealer an acknowledgement confirming that the application has been received.

While the council is considering their application, these dealers will be able to operate as if they have a licence. No date is specified in the Regulations setting out when councils will have to determine applications made between 1 and 15 October 2013.

If they do not submit an application their deemed licence will lapse on 16 October 2013. If they wish to trade in the future they would then need to submit an application, but would not be able to legally trade until a licence had been granted.

An application form together with guidance notes are available from the Licensing Section of Caerphilly County Borough Council (01443 867750 or licensing@caerphilly.gov.uk).

5. What happens if I am not registered before 1 October 2013?

Where an applicant is not registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 before 1 October 2013, then they will not be able to trade legally after 1 October 2013 until a licence has been issued. Full enforcement of the provisions in the 2013 Act will commence from 1 December 2013.

6. Does the Act include firms that hire out skips, or tradesmen like plumbers or builders who sell scrap metal resulting from any work they do?

The answer to this question varies according to individual circumstances to a certain extent, but generally 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.

7. What information do you require for the application of a scrap metal dealers licence?

The information, which must accompany an application for a scrap metal dealers licence, is as follows:

- the full name, date of birth and usual place of residence of an individual applicant (including mobile collectors), anyone proposed as a site manager for a site, and every partner where a partnership is applying for a licence
- the company name, registered number and registered office address where it is the applicant any proposed trading name for the business
- the telephone number and email address (if any) of the applicant.
- where it is a site licence, the address of each proposed site to be included on the licence
- the address of any site in another council area where the applicant already carries on business or proposes to do so
- details of any relevant environmental permit or registration held by the applicant
- details of any other scrap metal licences issued to the applicant within the three years before making this application
- details of the bank account(s) to be used for cashless transactions
 - where a licensee operates multiple sites different bank accounts may be used
- details of any relevant conviction or enforcement action that relates to the applicant

There are practical reasons why this information has to be supplied. Either it relates to details that have to be included on the licence if it is granted, it helps in the assessment of an applicant's suitability to hold a licence, or it has to be provided to the Environment Agency/Natural Resources Wales for inclusion on the register of scrap metal dealers.

Although the council has to be supplied with this information this is not the limit of what it can ask for. Councils are entitled to request any further information they regard as relevant to considering the application.

8. What is the fee for application?

Any application must be accompanied by a fee. The fee is set by the council having had regard to guidance issued by the Home Office, the requirements of the European Union Services Directive and any licensing case law.

9. How does the Council assess the suitability of the applicant?

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.

In assessing an applicant’s suitability the council can consider any information it considers relevant. Applicants’ behaviour in the operation of their business, factors that could be considered are:

- the fact they have been operating for a considerable period of time without planning permission for their site
- 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
- they had previously held a scrap metal dealers licence that has been revoked

10. What happens if I do not have planning permission?

The lack of planning permission can only be taken into account for sites established after 1 November 1990 as sites in use before then will not have needed to obtain planning permission. Using the lack of planning permission as a relevant consideration for a site where it has not been needed could provide valid grounds for appealing the council’s decision.

11. Do I need to apply for a basic disclosure?

Councils will undoubtedly want to satisfy themselves that an applicant is a suitable person by checking that they do not have previous relevant convictions, been the subject of any relevant enforcement action or have been refused a licence. There are benefits from the industry’s perspective in there being a standardised process when it comes to assessing applicants’ suitability, and in having a consistent approach applied to each application.

Agreement has therefore been reached between the Home Office and Disclosure Scotland allowing applicants for a scrap metal dealers licence to apply for a Basic Disclosure as part of the application process. The Basic Disclosure certificate contains details only of any unspent convictions as of the date the certificate is issued. It can be applied for on-line or by completing a form, and paying a fee of £25 (www.disclosurescotland.co.uk/apply/individuals/ or 0870 6096006). 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.

As part of the application process, applicants will be required to provide a Basic Disclosure certificate when submitting the application form.

During the transition period only, dealers **are not** required to wait for their certificates to be returned, before submitting their application. However, as soon as it is received, applicants will be required to produce the certificate so that the council can determine the application.

The Basic Disclosure certificate will remain the property of the applicant. This would allow them to use it for other applications to other councils. The Council will accept a certificate up to 3 months old.

12. What happens when I produce my basic disclosure?

Once the council has received the application they can then compare the results of the certificate with the relevant offences and enforcement actions prescribed by the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Actions) Regulations 2013.

Any of the offences or the enforcement actions listed in these Regulations must be declared in connection with an application and may affect the suitability of the applicant to hold a licence. Details of the relevant offences and enforcement action are referred to in the application form which is available from the Council's Licensing Section.

Councils can also consult with other agencies to determine whether applicants have details of convictions for relevant offences secured by the Environment Agency/Natural Resources Wales or other councils.

13. I have been convicted of a relevant offence; does this mean I will be refused a licence?

It is important to bear in mind when considering any application that even if an applicant has been convicted of a relevant offence this is not automatic grounds for refusing to grant a licence. The council has discretion in this matter and could decide after receiving further information from an

applicant or other bodies, and considering the matter further, that they can grant a licence, or grant the licence with conditions.

For example the council could take into account how long ago the offence was committed, the nature of the offence or enforcement action; the gravity of the offence or enforcement action or when the enforcement action was taken.

14. What if the Council decide to reject my application?

Where a council proposes to reject an application (or revoke it or vary it) the applicant has to be notified what the council proposes to do and the reasons for it. If having conducted an initial assessment of an applicant's suitability the council is minded to refuse the application, it must write to the applicant to let them know.

In doing so the notice from the council has to give the applicant (or licensee) the opportunity to make representations or let the council know they wish to.

The notice must also specify a period of time in which the applicant does this, which cannot be less than 14 days from the date on which the notice is given to the applicant. If the applicant does not make any representations, or does not say that they wish to in that time period, then the council can refuse the application or revoke or vary the licence. Where the applicant states they want to make representations the council has to give them a further period in which to do so, and only if they fail to do so can they refuse the application or revoke or vary the licence.

Where the applicant makes representations the council has to consider them and if the applicant states they want to make oral representations the council must provide them with the opportunity to appear before the relevant Sub Committee.

15. What will happen at the application hearing?

The requirement on councils to allow an applicant to make oral representations means that it will be appropriate to refer any contested applications to the relevant Sub Committee.

16. Will the Council notify me of the hearing decision?

Where a council has refused an application, revoked a licence or varied a licence it must give the applicant or licensee notice of the decision, which also sets out the reasons for the decision.

The notice also has to inform the applicant or licensee of their right to appeal the decision; the timeframe for making that appeal; and, where the licence has been revoked or varied, the date when that comes into effect.

17. Can I appeal?

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.

The dealer 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.

18. Can the Council impose conditions on my licence?

Conditions can be imposed only 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.

Councils can 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;
- any scrap metal received must be kept in the form in which it is received for a specific period not exceeding 72 hours, beginning with the time when it is received.

19. Can I apply to vary my licence?

Dealers can apply to vary a licence from a site licence to a collector's licence or vice versa, and have to apply to vary the licence where there are any changes in certain details. The application has to be made to the council that issued the licence and has to set out the details of how the licence needs to be amended. 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.

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.

Councils have to be aware that 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 effect 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.

Failure on the part of the licensee to apply for a variation is an offence punishable by a fine not exceeding level 3 on the standard scale.

20. Is there a National Register?

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. The register itself will be accessed through the Environment Agency/NRW website,

21. What information will recorded 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 collector)
- the date the licence expires.

22. When I am granted a licence how do I comply with the provisions of the Act?

Display of Licence

- 1) A scrap metal dealer who holds a site licence must display a copy of the licence at each site identified in the licence
- 2) A scrap metal dealer who holds a collector's licence must display a copy of the licence on any vehicle he uses.

Verification of supplier's identity

- 3) A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address (from documents, data from a reliable source).

Offence of Buying Scrap Metal for Cash

- 4) A scrap metal dealer must not pay for scrap metal except by a cheque (not transferable) or by an electronic transfer of funds (credit/debit cards).

Records: receipt of metal

5) On receipt of metal the dealer must record the following:

- (a) Description of metal
- (b) Date and time of receipt
- (c) If delivered in vehicle, the registration details of vehicle
- (d) If metal received from person, full name and address of that person (verification documents to be copied and kept).
- (e) If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- (f) If payment by cheque then a copy of it must be kept
- (g) If payment is via electronic transfer then dealer must keep receipt or keep a record of the particulars identifying the transfer.

6) Records: disposal of metal

Metal is considered disposed of whether or not it is in the same form in which it was received; whether or not the disposal is to another person; whether or not the metal is despatched from a site.

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

- (a) Description of metal
- (b) Date and time of disposal
- (c) If disposal to another person, name and address of that person
- (d) If dealer receives payment (sale or exchange) the price or other consideration received.

Where the disposal is in the course of a business under a **collector's** licence the following information must be recorded:

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