

# Blackburn with Darwen Borough Council

## SCRAP METAL DEALERS ACT 2013

### *INTERIM POLICY*

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## 1 INTRODUCTION

### 1.1 The Policy

1.1.1 This document states the Council's policy on the regulation of Scrap Metal Dealers in its capacity as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 (and the expressions "Council" and "local authority" shall be construed accordingly).

### 1.2 The Law

1.2.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 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 maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable".

The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

### 1.3 Definition of a Scrap Metal Dealer

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

- (a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- (b) they carry on business as a motor salvage operator (see 1.3.3).

1.3.2 Ancillary sales - a person selling scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.

1.3.3 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

- (a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap
- (b) buying written-off vehicles, repairing and reselling them
- (c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)

(d) wholly or mainly in activities falling within paragraphs (b) and (c)

1.3.4 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.

1.3.5 Scrap metal does not include:

- (a) Gold
- (b) Silver
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver

2 TYPES OF LICENCE

2.1 Anyone wishing to operate a business as a scrap metal dealer will require:

- I. a site licence; or
- II. a collector's licence.

The licence is valid for three years and permits the licence holder to operate within the boundaries of the issuing authority.

A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

2.2 SITE LICENCE

2.2.1 The site licence authorises the licensee to carry on business at the site(s) identified in the licence.

2.2.2 The site licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) identify all the sites in the authority's area at which the licensee is authorised to carry on business
- (d) the name of the site manager of each site
- (e) the date of expiry

2.2.3 The site licence also permits the licence holder to act as a collector.

## 2.3 COLLECTOR'S LICENCE

2.3.1 The collector's licence authorises the licensee to carry on business as a mobile collector within the authority's area.

2.3.2 The collector's licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) the date of expiry

## 3 SUITABILITY OF APPLICANT

3.1 A local authority must determine whether the applicant is a suitable person to carry on business as a scrap metal dealer and may not issue a licence unless satisfied that the applicant is suitable.

3.2 In determining this, the authority may have regard to any information which it considers to be relevant, in particular:

- (a) whether the applicant or site manager has been convicted of any relevant offence;
- (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
- (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
- (g) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that any environment-related offence is not committed.
- (h) whether the applicant can provide evidence of appropriate valid planning consents issued by the relevant Local Planning Authority for each site to which a site licence is applied for

- (i) whether the applicant has demonstrated that there will be an appropriate duty of care arrangement in place in relation to any residual waste
- (j) whether the applicant can provide evidence or appropriate and valid insurance in place for any vehicles operated for collecting scrap metal
- (k) whether the applicant has demonstrated through their previous trading history that they comply with consumer protection legislation and consumers' statutory rights

3.3 In this section:

- (a) "site manager" means an individual proposed to be named in the licence as a site manager
- (b) "relevant offence" means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State,
- (c) "relevant enforcement action" means enforcement action which is so prescribed by regulations, and
- (d) "environment-related offence" means as defined in the regulations made by the Secretary of State.

3.4 In determining whether a company is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether any of the following is a suitable person:

- (a) any director of the company
- (b) any secretary of the company
- (c) any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act)

3.5 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether each of the partners is a suitable person.

3.6 The authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State

3.7 The authority may consult other persons regarding the suitability of an applicant, including in particular:

- (a) any other local authority;

- (b) the Environment Agency;
- (c) an officer of a police force;

3.8 If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:

- (a) that the dealer must not receive scrap metal except between 9am and 5pm on any day;
- (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

3.9 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been convicted of any of the following offences within the period of three years prior to the application:

- ***Theft***
- ***Fraud***
- ***Money laundering***
- ***Section 33 EPA***
- ***Section 34 EPA***
- ***Breach of permitting regulations***
- ***Control of Pollution Amendment Act 1989***
- ***Assaults / offences against the person***

The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence.

3.10 Insofar as any of the offences contained in 3.9 above are not prescribed as “relevant offences” for the purposes of the Act the authority may nevertheless require further information from the applicant to assist in determining the suitability of the applicant. The authority may not treat any such offence or enforcement action as a “relevant offence” or “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an offence as a significant offence in relation to the suitability of the applicant to hold a licence.

3.11 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an

applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:

- ***Closure notice pursuant to the Act***
- ***Closure order pursuant to the Act***
- ***Action for recovery of possession of out of date or discontinued licences***

The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence. The authority may not treat any such enforcement action as a “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an action as a significant issue in relation to the suitability of the applicant to hold a licence.

3.12 Having regard to the objectives of the Act the authority has determined that it will consider the following offences or enforcement actions relating to any person relevant to the licence as being of particular relevance to the suitability of the licence holder:

- ***Written warning relating to scrap metal licence compliance***
- ***Waste regulations 2011 – enforcement, compliance and stop notices***
- ***Permitting regulations notices***
- ***Planning Breach of Condition / Enforcement Notices***
- ***Statutory nuisance abatement notice***
- ***Breach of statutory nuisance abatement notice***

Code of Practice

3.13 In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a licence the authority shall consider the suitability of the applicant or licence holder with regard to adherence or otherwise by the licence holder or any other person identified in the licence to the Code of Practice annexed to this policy at Appendix A or the applicant’s willingness to adhere to the Code of Practice or to any other relevant body or licensing authority’s Code of Practice in the case of a first application. Failure to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence.

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer’s opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder.

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the licence holder is no longer considered to be suitable to hold a licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

#### 4 REVOCATION OF LICENCE/IMPOSITION OF CONDITIONS

- 4.1 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.
- 4.2 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.
- 4.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and the authority shall have particular regard to any “relevant offences” and “relevant enforcement action” and to those matters contained in paragraphs 3.10, 3.11, 3.12 and 3.13 of this policy.
- 4.4 If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out in paragraph 3.8.
- 4.6 A revocation or variation comes into effect when no appeal under paragraph 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 4.7 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
  - (a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 3.8, or
  - (b) that a variation under this paragraph comes into effect immediately.
- 4.8 All licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant licence or copy licence. Action may be taken for the recovery of any

licence not returned as required by the Council and any such action may be taken into account in relation to any future application for a licence.

4.9 All reference in this policy to copy licences shall be construed as original copies officially endorsed and issued by the Council as the licensing authority.

## 5. SUPPLY OF INFORMATION BY AUTHORITY

5.1 This section applies to information which has been supplied to a local authority under this Act and relates to a scrap metal licence or to an application for or relating to a licence.

5.2 The local authority must supply any such information to any of the following persons who request it for purposes relating to this Act:

- (a) any other local authority;
- (b) the Environment Agency;
- (c) an officer of a police force.

5.3 This section does not limit any other power the authority has to supply that information.

## 6. REGISTER OF LICENCES

6.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and 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

6.3 The registers are to open for inspection to the public

## 7. NOTIFICATION REQUIREMENTS

7.1 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 proved in connection with the application.

- 7.2 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.
- 7.3 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.
- 7.4 The authority must notify the Environment Agency, of –
- (a) any notification given to the authority under paragraph 7.2 or 7.3
  - (b) any variation made by the authority under paragraph 16.3 (variation of type of licence or matters set out in licence), and
  - (c) any revocation by the authority of a licence
- 7.5 Notification under paragraph 7.4 must be given within 28 days of the notification, variation or revocation in question.

## 8. DISPLAY OF LICENCE

- 8.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.
- 8.2 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 easily to be read by a person outside the vehicle.

## 9. VERIFICATION OF SUPPLIER'S IDENTITY

- 9.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

Should verification not be gained then each of the following are guilty of an offence:

- (a) the scrap metal dealer
- (b) if metal is received at the site, the site manager
- (c) any person who, under arrangements made by a person within sub-paragraph (a) or (b), has responsibility for verifying the name and address.

## 10. PAYMENT FOR SCRAP METAL

- 10.1 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)

Payment includes paying in kind – with goods or services.

## 11. RECORDS: RECEIPT OF METAL

11.1 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

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

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

11.4 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.

## 12. RECORDS: DISPOSAL OF METAL

12.1 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

12.2 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 if 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

12.3 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

### 13. RECORDS: SUPPLEMENTARY

13.1 The information in paragraphs 11 and 12 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.

13.2 The records mentioned in paragraph 11 must be marked so as to identify the scrap metal to which they relate.

13.3 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.

13.4 If a scrap metal dealer fails to fulfil a requirement under paragraph 11 or 12 or this paragraph each of the following is guilty of an offence by way of section 15 of the Act:

- (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 (b) has responsibility for fulfilling the requirement.

13.5 It is a defence for a person within who is charged with an offence under section 15 of the Act 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

### 14. RIGHT OF ENTRY & INSPECTION

14.1 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.

- 14.2 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.
- 14.3 Paragraphs 14.1 and 14.2 do not apply to residential premises.
- 14.4 A constable or an officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in paragraphs 14.1 and 14.2.
- 14.5 A justice of the peace may issue a warrant authorising entry in accordance with section 16 of the Act to any premises within paragraph 14.6 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
- 14.6 Premises are within this paragraph 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.
- 14.8 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 16 of the Act.
- 14.9 A constable or an officer of the Council may:
- (a) require production of, and inspect, any scrap metal kept at any premises mentioned in paragraphs 14.1 or 14.2 or in a warrant under section 16.
  - (b) require production of, and inspect, any records kept in accordance with section 13 or 14 of the Act and any other records relating to payment for scrap metal
  - (c) take copies of or extracts from any such records.
- 14.10 Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any site licensed pursuant to the

Act and the licence holder, site managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

## 15. APPLICATION PROCEDURE

### 15.1 Term of Licence

A licence is valid for three years beginning from the day it is issued. A renewal application must be received prior to the licence expiry.

If withdrawn the licence expires at the end of the day of withdrawal.

If refused, the licence expires with no appeal is possible or any such appeal is finally determined or withdrawn.

If renewed, the licence expires at the end of the three year period from the date of the renewal.

### 15.2 Application

The application form, available from the Licensing Department, should be accompanied by:

- a) full name of applicant (if an individual), date of birth and usual place of residence
- b) name and registered number of the applicant (if a company) and registered office
- c) if a partnership – full name of each partner, date of birth and usual place of residence
- d) proposed trading name
- e) telephone number and email address (if any) of applicant
- f) address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so with relevant proof of valid planning permission
- g) any relevant environmental permit or registration in relation to the applicant, to include proof of an appropriate duty of care arrangement in place in relation to any residual waste
- h) details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application.

- i) details of the bank account which is proposed to be used in order to comply with section 11
- j) details of any relevant conviction or enforcement action taken against the applicant.

For site licence, the applicant must also provide:

- a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought) this should include proof of valid planning permission.
- b) the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
- c) site manager details to be included for (g) (h) and (j) above

Please note the collectors licence allows a business or individual to operate only within that authority's area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

All applicants are required to provide a basic disclosure of criminal convictions with the application.

### 15.3 Variation of Licence

A licence may be varied from one type to the other. A variation application must be made to reflect changes to:

- Site licence – the name of licensee, the sites, site manager
- Collector's licence – name of licensee

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

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

### 15.4 Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Where a renewal application has been refused – the licence expires when no appeal has been made under paragraph 2 of Schedule 1 of the Act or any such appeal has resulted in confirmation of the refusal.

#### 15.5 Further Information

The Council may request (at the time of application or later) that additional information is provided, as may be considered relevant for the purpose of considering the application.

Failure to provide such information may result in the application being declined.

#### 15.6 Fee

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.

#### 15.7 Right to Make Representations

If the Council proposes to refuse an application or to revoke/vary a licence a notice shall be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice shall also state that within the period specified the applicant/licensee can either:

- a) make representations about the proposal, or
- b) inform the authority that the applicant/licensee wishes to do so.

The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council whether the applicant / licensee wishes to make representations. Should this period expire and the applicant/licensee has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

If the applicant/licensee notifies the authority that they wish to make oral representations, the authority shall give them the opportunity of appearing before, and being heard by, the person appointed by the authority.

#### 15.8 Notice of Decision

If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which notice of the decision was given) and, if revoked or varied, the date on which the revocation or variation is to take effect.

## 15.9 Appeals

An applicant may appeal to a magistrates' court against the refusal of an application or a variation. The licensee may appeal to a magistrates' court against the inclusion in a licence of a condition under Section 3(8) of the Act or the revocation or variation of a licence.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 4 was given.

On appeal, the magistrates' court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the magistrates' court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

## 16. CLOSURE OF UNLICENSED SITES

### 16.1 Interpretation

A person with an interest in premises is the owner, leaseholder or occupier of the premises.

### 16.2 Closure Notice

These are 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.

In such circumstances 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 the notice

shall specify the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice shall 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 shall 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.

### 16.3 Cancellation of Closure Notice

A "cancellation notice" issued by a constable of 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. This must also be given to any other person to whom the closure notice was given.

### 16.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority shall make a complaint to a justice 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.

### 16.5 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.

#### 16.6 Termination of Closure Order by Certificate

Once a closure order has been made and a constable or the local authority is satisfied that the need for the order has ceased a certificate may be issued. 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.

#### 16.7 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 not 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).

#### 16.8 Appeal in relation to Closure Orders

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) or (c) may be made by a constable or the local authority.

#### 16.9 Enforcement of Closure Order

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

#### 17. OFFENCES & PENALTIES

The following are prescribed by the Act as criminal offences:

Section 1	Carrying on business as a scrap metal dealer without licence (level 5)
Section 8	Failure to notify authority of any changes to details given with application (level 3)
Section 10	Failure to display site licence or collectors licence (level 3)
Section 11(6)	Receiving scrap metal without verifying persons full name and address (level 3)
Section 11 (7)	Delivering scrap metal to dealer and giving false details (level 3)
Section 12 (6)	Buying scrap metal for cash (level 5)
Section 13	Failure to keep records regarding receipt of metal (level 5)
Section 14	Failure to keep records regarding disposal of metal (level 5)

Section 15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another (level 5)
Section 15 (2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued (level 5)
Section 15 (3)	Failure to keep information and records for three years (level 5)
Section 16	Obstruction to right of entry and failure to produce records (level 3)
Section 17	<p>Where an offence under this Act is committed by a body corporate and it is proved—</p> <p>(a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer, or</p> <p>(b) to be attributable to any neglect on the part of any such individual,</p> <p>the individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.</p> <p>(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.</p>

## DEFINITIONS

“Licensed site” means a site identified in a scrap metal licence.

“Mobile collector” means a person who—

- a) carries on business as a scrap metal dealer otherwise than at a site, and
- b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

“police officer” includes a constable of the British Transport Police Force.

“Premises” includes any land or other place (whether enclosed or not).

“Relevant environmental permit or registration” means—

- a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2010 authorising any operation by the applicant in the local authority's area;

- b) any registration of the applicant under Schedule 2 to those Regulations in relation to an exempt waste operation (within the meaning of regulation 5 of those Regulations) carried on in that area;
- c) any registration of the applicant under Part 8 of the Waste (England and Wales) Regulations 2011 (carriers, brokers and dealers of controlled waste).

“Relevant offence” and “relevant enforcement action” have the meaning given by section 3(3) of the Scrap Metal Dealers Act 2013. (see annex 2)

“Site” means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

“Site manager”, in relation to a site at which a scrap metal dealer carries on business, means the individual who exercises day-to-day control and management of activities at the site. (An individual may be named in a licence as site manager at more than one site; but no site may have more than one site manager named in relation to it).

“Trading name” means a name, other than that stated in the licence under which a licensee carries on business as a scrap metal dealer.

## ANNEX A requirements:

All scrap metal dealers and merchants signing up to this Code agree to abide by the following requirements:

- All reasonable steps will be taken to ensure stolen metals are not bought.
- Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013
- No payment shall be made to any person other than the person as identified on the scrap metal collector's licence displayed on the vehicle where metals are produced by a licensed scrap metal collector.
- Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Dealers will co-operate with police and local authorities by allowing access and inspection when requested.
- No blackened copper wire that has obviously had its insulation removed should be bought.
- Metals will not be accepted from customers on foot.
- Metal will not be accepted from customers arriving in taxis or private hire vehicles.
- Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police".
- In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note.
- Dealers shall have available and actively use UV torches for detecting forensically marked metals.
- Suspicious persons will be reported to the local police force for the area concerned.
- Suspicious transactions will be reported to the local police force for the area concerned.
- Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- All scrap metal dealers agree to work towards installing automatic number plate recognition cameras or police approved CCTV systems at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).

## ANNEX 2

### Relevant Offences:

- An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989.
- An offence under section 170 or 170B of the Customs and Excise Management Act 1979(5), where the specific offence concerned relates to scrap metal.
- An offence under section 110 of the Environment Act 1995.
- An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990.
- An offence under section 9 of the Food and Environment Protection Act 1985.
- An offence under section 1 of the Fraud Act 2006(9), where the specific offence concerned relates to scrap metal, or is an environment-related offence.
- An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002.
- Any offence under the Scrap Metal Dealers Act 1964.
- Any offence under the Scrap Metal Dealers Act 2013.
- An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968(13), where the specific offence concerned relates to scrap metal, or is an environment-related offence.
- Any offence under Part 1 of the Vehicles (Crime) Act 2001.
- An offence under sections 85, 202, or 206 of the Water Resources Act 1991.

- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007.
- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010.
- Any offence under the Hazardous Waste (England and Wales) Regulations 2005.
- Any offence under the Hazardous Waste (Wales) Regulations 2005.
- An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002.
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000.
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007.
- Any offence under the Transfrontier Shipment of Waste Regulations 1994.
- Any offence under the Transfrontier Shipment of Waste Regulations 2007.
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006.
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011.