

# **BASILDON BOROUGH COUNCIL**

## **SCRAP METAL DEALERS ACT 2013 GUIDANCE NOTES**

The Scrap Metal Dealers Act 2013 (“the Act”) repeals the Scrap Metal Dealers Act 1964 (and linked legislations) and Part 1 of the Vehicle (Crime) Act 2001, creating a revised regulatory regime for 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.

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

- (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 brought, or
- (b) Carry on a 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 Basildon 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 paragraph (a) or (b), or
- (d) Wholly or mainly 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?**

- (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 Collectors 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. 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/](http://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.

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 that 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.

Basildon Council have set out what other documents are required to assist in the determination of an applicants suitability and they are listed as follows:

- Photographic ID (i.e. Full driving licence (if you have a photo licence please include paper part), current valid passport);
- Birth certificate;
- Proof of address (must be less than 3 months old) i.e. utility bill or bank statement;
- Certificate of good conduct for applicants that have been resident outside of the country for long periods, from the age of 10 years;
- Where appropriate, documentation showing right to work (residents permits);
- Relevant environmental permits/licence in force i.e. scrap metal dealers or motor salvage operators, waste carrier's permit;
- Proof of bank account details that will be used for payments to suppliers;
- Two passport sized passports.

## **6. 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 Basildon Council website.

**7. 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 the Miscellaneous Licensing Sub-Committee to convene to hear these.

Should the Sub-Committee formally refuse your Licence you may then appeal to the Magistrates' Court, within 21 days.

**8. Once granted how long does the Licence last for?**

3 years and the lapses; the dealer must renew the Licence.

**9. 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 provide 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 and address).
2. Change from a Site Licence to a Collector's Licence or vice versa.
3. Changes to the site 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.

**10. 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.

## **11. 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 1992 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.

## **12. 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 (see 13 below for acceptable forms of ID).

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 the 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.

### **13. What forms of ID are acceptable?**

Statutory Instrument 2276 / 2013 (The Scrap Metal Dealers Act 2013 Prescribed Documents and Information for Verification of Name and Address Regulations 2013) contains the forms of ID which are acceptable and these are quoted below:

- (1) For the purposes of section 11 (3) of the Act, in order to verify a person's name and address, it will be sufficient for the scrap metal dealer to refer to either-
  - (a) a document listed in paragraph (2) which bears the person's full name, photograph and residential address; or
  - (b) Both of-
    - (i) a document listed in paragraph (2) which bears the person's full name, photograph and date of birth, and
    - (ii) a supporting document listed in paragraph (3) which bears the person's full name and residential address.
- (2) The documents which apply for the purposes of regulation 2(1)(a) or (b)(i) are as follows:
  - (a) a valid United Kingdom passport, within the meaning of section 33(1) of the Immigration Act 1971; or

- (b) a valid passport issued by an EEA state; or
  - (c) a valid Great Britain or Northern Ireland photo-card driving licence; or
  - (d) a valid UK biometric immigration document, issued in accordance with regulations made under section 5 of the UK Borders Act 2007.
- (3) The documents which apply for the purposes of regulation 2(1)(b)(ii) are-
- (a) a bank or building society statement;
  - (b) a credit or debit card statement;
  - (c) a council tax demand letter or statement; or
  - (d) a utility bill, but not a mobile telephone bill

provided that the date on which the document in question was issued is not more than three months before the date when the scrap metal is received by the scrap metal dealer.