

Title: To amend the law relating to dealers in scrap metal IA No: HO0086 Lead department or agency: Home Office Other departments or agencies: Defra, Ministry of Justice, BIS and HM Treasury	Impact Assessment (IA)		
	Date: 29 September 2014		
	Stage: Enactment		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Richard Pugh, Home Office			

Summary: Intervention and Options	RPC Opinion: GREEN
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£411m	-£320m	£30.4m	Yes IN

What is the problem under consideration? Why is government intervention necessary?

The Government believed that the regulation of the scrap metal industry, the Scrap Metal Dealers Act 1964, was no longer effective and did little to raise trading standards of the industry or prevent the trade of stolen metal which cost the UK at least £220m per annum. Parts of the scrap metal industry were recognised by the Association of Chief Police Officers as being the principal market for stolen metal. Reform of the sector was therefore considered vital and so the Government introduced the Scrap Metal Dealers Act 2013.

What are the policy objectives and the intended effects?

The intended effect of the policy was to implement the Scrap Metal Dealers Act 2013 which provided a robust, modernised, and comprehensive regulatory regime for the metal recycling sector that enabled agencies to tackle unlawful behaviour and metal theft.

The Act would reduce crime by ensuring that only scrap metal dealers with a licence are permitted to operate, and that those dealers who facilitate metal theft are identified, tackled and closed. A licence places a number of conditions on the dealer which must be met and failure to meet these conditions may result in the licence being revoked; and operating without a valid licence can result in the site being closed. These measures aim to raise trading standards across the industry, tackling the low risk/high reward nature of metal theft.

The Act also better integrates this regime with the separate environmental regulations overseen by the Environment Agency, to ensure closer intelligence sharing and enforcement activity where possible between organisations.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The Home Office has delivered a range of activity to tackle metal theft with mixed success, but reform of the scrap metal industry has always been considered the most effective, long term solution. The following options were considered:

Option 1: Do Nothing – The Scrap Metal Dealers Act 1964 would continue to be the primary regulation of the scrap metal industry and we would rely on the measures taken in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Option 2: Repeal the Scrap Metal Dealers Act 1964 and enact the Scrap Metal Dealers Act 2013; a more robust, local authority administered licence regime.

Option 2 was the preferred option for the reasons set out in Section E and the Act commenced on 1 October 2013, and was fully implemented on 1 December.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: By October 2018					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Norman Baker _____ Date: 1 October 2014

Summary: Analysis & Evidence

Policy Option 2

Description: Regulate the scrap metal industry through a new Scrap Metal Dealers Act

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -152	High: -985	Best Estimate: -411

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1.4	17.9	156
High	3.4	115.5	998
Best Estimate	2.3	48.4	419

Description and scale of key monetised costs by 'main affected groups'

Business: one-off costs (£1.6m), payment of licence fee (£0.9m), compliance with new requirements (£20.7m for dealers and £10.4m for customers who are businesses). **Individuals** (non-business customers: compliance with new requirements £10.4m). **Local Authorities:** one-off costs (£0.6m), additional admin and compliance checks (£0.9m). **Environment Agency:** IT set-up (£0.1m one-off), staff training (£0.03m one-off) and support (£0.06m). **CJS:** increase in offences (£3,000 to CPS and HMCTS).

Other key non-monetised costs by 'main affected groups'

Proposals could lead to appeals of licence refusal or revocation to the magistrates' court. Costs of these appeals are expected to be minimal, due to the small number estimated, but costs could not be estimated. If the police carried out enforcement activity on compliant businesses then there would be an opportunity cost to businesses. This is assumed to be minimal and could not be estimated.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	0.4	4
High	-	1.5	13
Best Estimate	-	0.9	8

Description and scale of key monetised benefits by 'main affected groups'

Business: Removal of license fee for end of life vehicle sites (£0.06m).
Local Authorities: fee income (£0.9m).
CJS: fine income from increased offences including Victim Surcharge payments (£4,000 to HMCTS).

Other key non-monetised benefits by 'main affected groups'

This Act seeks to reduce metal theft. These proposals should reduce metal theft which would lead to savings to businesses and individuals. Approximately 20 per cent of the £220m cost of metal theft would need to be saved in order to cover the costs of the policy with an estimated 95 per cent of any crime reduction benefits likely to fall to businesses.
 There will also be benefits to the Treasury from increased tax receipts.

Key assumptions/sensitivities/risks	Discount rate (per cent)	3.5
Sensitivity analysis demonstrates scale of potential error in assumptions. This is found in Section G. In particular there is uncertainty around the number of voluntarily compliant businesses and the level of repeat trade. These are key cost drivers and so any error in the assumptions will impact on the cost of the policy.		
There is a risk that criminals by-pass legitimate scrap metal dealers, which will increase the number of illegal sites.		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 30.4	Benefits: 0.1	Net: -30.4	Yes	IN

Evidence Base (for summary sheets)

Other related impact assessments:

HO0058 – Impact Assessment related to the inclusion of metal theft measures in the Legal Aid, Sentencing and Punishment of Offenders Act 2012

HO0074 – Impact Assessment related to the laying of the Scrap Metal Dealers Bill

A. Strategic Overview

A.1 Background

1. The scrap metal industry was regulated by the Scrap Metal Dealers Act 1964 (SMDA 1964) which was considered by the Government, as well as the scrap metal industry, to have severe limitations and did little to stop the purchase of stolen metal. Parliament has considered the matter and agreed that regulatory reform was required, passing the Scrap Metal Dealers Act 2013 (SMDA 2013). The SMDA 2013 created a new regulatory regime for the industry, putting in place a more robust, local authority administered and enforced, licensing regime covering all businesses who buy and/or sell scrap metal commercially. Separate legislative measures to tackle metal theft were also included in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO Act).

Metal theft

2. The previous LASPO Act 2012 [HO0058]¹ and Scrap Metal Dealers Bill [HO0074]² impact assessments contain more detailed background information on metal theft which will not be repeated in any detail in this impact assessment. The Home Office has estimated that there were between 80,000-100,000 police recorded metal theft offences in 2010/11 as part of the 491,562³ police recorded 'other theft or unauthorised taking' offences. Metal theft has affected a range of sectors in the UK including power, transport and telecommunications. Other affected sectors include wireless, water supply, religious/heritage buildings, construction, and local authorities and scrap metal dealers, as well as posing a serious threat to the security of the national infrastructure. The most recent studies estimate the total cost of metal theft to the UK at between £220m-£260m per year (Deloitte, 2011) and £777m per year (ACPO, 2010). Deloitte, in calculating their cost, acknowledges that this is likely to be an underestimate.

i) Enforcement

3. HM Government provided £5m of additional funds to establish the National Metal Theft Taskforce in November 2011 lasting up until 31 March 2013. Further funding has since been provided for the Taskforce to continue until 30 September 2014 which coincides with the end of the first year of the new licensing scheme. These funds were provided to the British Transport Police as the lead UK police force for metal theft who subsequently allocated this money to fund bespoke local projects once selected by a bidding panel. Enforcement alone however was not enough as the Scrap Metal Dealers Act 1964 which regulated the industry still had a number of weaknesses which made effective regulation of the industry impossible.

ii) Legislation

4. Legislative measures were taken through the LASPO Act 2012 which commenced on 3 December 2012 which increased the financial penalties for each of the offences in the SMDA 1964 by two levels; revised police entry powers and most notably prohibited the use of cash to purchase scrap metal. However, these measures were always considered to be the pre-cursor for wider regulatory reform of the industry that was delivered by the SMDA 2013.

¹ <http://www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/laspo-metal-theft-ia.pdf>

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/143807/scrap-metal-dealers-ia.pdf

³ Crime in England and Wales: Quarterly First Release to March 2012, Office for National Statistics, July 2012

5. Although the LASPO metal theft provisions went some way to regulate the Scrap Metal Industry, the Scrap Metal Dealers Act 1964 still had a number of flaws. It did not reflect the twenty-first century scrap metal industry and the materials that dealers purchased. The 1964 Act exempted 'itinerant collectors' from record keeping and other requirements. The Act did not require the dealer to accurately record transactions, nor did it require the dealer to satisfy themselves of the title of the goods that they were purchasing, or to verify the seller's identity. The Act also did not have a power for the local authority to refuse to register a dealer or to remove a dealer from the register. In effect, the Act did little to stop the purchase of stolen metal.
6. Through the Scrap Metal Dealers Act 2013, we have put in place a more robust, local authority administered, regime for the scrap metal industry. This new regime will support law abiding scrap metal dealers, whilst including further powers to ensure unscrupulous dealers can be adequately dealt with, including clear and enforceable responsibilities on scrap metal dealers. We have better aligned the scrap metal and environmental permit regimes by creating a single national register, hosted by the Environment Agency that is available to the public online.

Progress to date

7. The Association of Chief Police Officers estimated that reported metal thefts fell by 38 per cent during the 2012 calendar year; however, because of the nature of this crime recording, this figure cannot be corroborated by the Home Office. As no impact evaluation had been completed, this reduction could not be attributed to any one measure but many of the measures may have contributed to this decline, including Operation Tornado which trialled a number of licence conditions contained within the Scrap Metal Dealers Act 2013.

A.2 Groups Affected

8. A number of groups are affected by the implementation of this policy:
 - i) **Scrap metal dealer industry** – there are over 7,000 businesses operating in England and Wales (see Table E.1).
 - ii) **Motor salvage operators** – their existing regulation, the Vehicles (Crime) Act 2001, has been repealed and they are regulated by the SMDA 2013.
 - iii) **Public** – members of the public who wish to recycle legitimately owned scrap metal.
 - iv) **Local authorities** – they administered and ensured compliance under the SMDA 1964 and have an enhanced regulatory role, albeit funded by a licence fee, with the SMDA 2013.
 - v) **Police forces** – responsible for responding to the criminal offences under this new regime. The offences do not differ from current responsibilities.
 - vi) **Environment Agency** and **Natural Resources Wales** – continue to separately regulate the scrap metal industry through environmental regulation, but they now host and maintain a publicly accessible register of licensed scrap metal dealers as part of the SMDA 2013.
 - vii) **Her Majesty's Revenue and Customs (HMRC)** and **HM Treasury** – more transparent record keeping by the industry as a result of the new licence regime in addition to cashless and more transparent transactions will provide greater clarity as to the business of this sector. This should lead to greater compliance with tax payment procedures so as to close the perceived tax gap that currently exists within this sector.
 - viii) **Her Majesty's Courts and Tribunals Service, Crown Prosecution Service** – there may be an increase in the number of offences that enter the justice system.
 - ix) **Business and the wider UK economy** – any reductions in metal theft would reduce the social and economic costs which are estimated to be at least £220m each year.

A.3 Consultation

Within Government

9. The SMDA 2013 was sponsored by Sir Richard Ottaway MP with significant input from the Home Office. The Home Office discussed the approach to tackle metal theft and the legislative response with departments across Government – in particular the Department for the Environment, Food and Rural Affairs (and the Environment Agency); the Department for Communities and Local Government; the Ministry of Justice and the Department for Business, Innovation and Skills. Discussions also included the Cabinet Office; the Department for Energy and Climate Change and the Department for Transport. The SMDA 2013 was agreed by the Welsh Assembly Government as the geographic extent of this Act covers both England and Wales. Separate discussions were held with the Scottish Government and Northern Ireland Assembly, as well as with overseas representatives including the Royal Canadian Mounted Police.
10. The SMDA 2013 has been debated and passed through both Houses of Parliament to receive Royal Assent. Throughout the SMDA 2013's passage through Parliament, the Act drew overwhelming support with contributions such as *"the need for the Bill is undeniable"*⁴ and that *"new legislation was necessary"*⁵. In addition, a Backbench Committee Debate in February 2012 passed a motion to introduce additional measures to regulate the scrap metal industry and tackle metal theft as "a matter of urgency".⁶ Calls to revise the SMDA 1964 were not just made by Parliament. The Home Office received significant volumes of correspondence between 2011-2013, including from the scrap metal industry, with the vast majority supporting the need for change.

Public Consultation

11. No formal public consultation took place although the Home Office met and obtained the views from the British Metals Recycling Association (the key representative body of the scrap metal industry), three scrap metal firms, the Local Government Association, the Association of Chief Police Officers and other members of the multi-agency Association of Chief Police Officers Metal Theft Working Group. Prior to this, discussions had been held with a wide number of companies during 2011-2013, including with private industry, infrastructure providers, scrap metal dealers (including European and Worldwide sector representatives) and the third sector.
12. It was widely accepted that the SMDA 1964 had severe limitations and needed to be revised. This view was shared by, amongst others, the scrap metal industry. The British Metals Recycling Association said in a position paper⁷ released in April 2012 that they:

"continue to call for a rapid and comprehensive reform of regulations in order to tackle metal theft including a tough new licensing regime, a single national register of merchants and reform of the out-dated Scrap Metal Dealers Act (1964)."

13. In addition, core components of our proposal were already considered good practice by the industry and included within the British Metal Recycling Association's voluntary code of practice which is adopted by their members. Seeking additional identification from the seller formed part of this code of practice and was common practice for a number of scrap metal dealers. It formed a key component of Operation Tornado, a voluntary nationwide industry/police operation that was implemented from January 2012 and had significant participation across the UK with over 80 per cent of dealers in some regions (e.g. the North East) participating.⁸ The Home Office received similar support from other scrap metal firms⁹.

⁴ Hansard reference: 30 November 2012 : Column 411

⁵ Hansard reference: 30 November 2012 : Column 416

⁶ Hansard reference: 7 Feb 2012 : Column 273

⁷ <http://onlinenewsroom.co.uk/bmra/recycling-sustainability/bmra-demands-urgent-regulatory-reform-to-tackle-metal-theft/>

⁸ ACPO, 2012, Operation Tornado briefing

⁹ Support has been received in particular from SITA UK and Alchemy Metals, two leading scrap metal firms, and universal support from the multi-agency ACPO Metal Theft working group including police, wider law enforcement, scrap metal industry and private industry/infrastructure providers.

14. SITA UK, a large business within the scrap metal industry, believed that the cash in hand nature and lax record keeping that dominated the scrap metal industry, facilitated tax avoidance/evasion. They publicly stated that £1 billion of transactions avoid direct and indirect tax each year. Tackling this was a significant driver behind our decision to seek a criminal offence of cash payments that we made through the LASPO Act 2012. Through this proposal we sought to tighten up the record keeping requirements further, including requiring identification.

B. Rationale

15. Metal theft was costing the UK at least £220 million each year¹⁰ and was largely driven by the increasing cost of metals on the world commodity market. Experts, including those at the London Metal Exchange, predicted that the cost for most metals was likely to continue to rise, albeit at a slower rate, until at least 2015. This meant it was likely that metal prices would continue to rise together with incidents of metal theft.
16. The Association of Chief Police Officers believed the scrap metal market was the main route through which stolen metal was traded in the UK. Outdated regulation of the scrap metal industry did nothing to address poor trading standards that allowed the purchase of stolen metals. For example, the requirement to keep a record of transactions was lax and where records were kept, there was no requirement for accuracy, only completion. The police encountered numerous examples of falsely kept records. There was also no requirement for the dealer to satisfy himself that the goods were not stolen, or to verify the seller's identity.
17. Operation Tornado, a joint initiative between the British Transport Police, Home Office police forces and the scrap metal industry was created in January 2012 and went live across the UK during 2012. This required participating scrap metal dealers to take voluntary additional steps to check the identity of individuals selling scrap metal, and a more focused, coordinated law enforcement response. The success of Operation Tornado was in part due to the industry recognising that these changes would soon become a statutory requirement, without this it was very unlikely that a voluntary agreement could have succeeded. The Home Office, together with other partners, has delivered a range of non-legislative activity to tackle metal theft. Further details of these activities can be found in the final stage impact assessment. However, the continuing attractiveness of metal as a criminal commodity and the accessibility of stolen metal markets suggested that more robust regulation of the scrap metal industry was required.
18. Government involvement was therefore required to revise the regulation governing this industry to ensure it better reflected the twenty-first century industry and the types of businesses that operated as scrap metal dealers. The SMDA 2013 provides this new regulation building on measures included in the LASPO Act 2012. The SMDA 2013 builds upon the successes and limitations of a range of work that had already been delivered to tackle metal theft, including Operation Tornado. The identification and record keeping measures are replicated in the SMDA 2013 as a result of their success, with metal theft falling by up to 50 per cent in some regions (e.g. North East) where the operation had been running the longest. Whilst no formal evaluation of Tornado has taken place, it is possible that it has, in part, contributed to the 38 per cent reduction in metal theft offences in 2012.
19. The Home Office was aware that criminals may have looked to exploit other markets to sell their stolen metal if the SMDA 2013 effectively closed the market offered by scrap metal dealers. Discussions are ongoing to identify potential other outlets and to develop effective counter strategies. For example, it is thought that metal diverted away from scrap yards could be directly exported. The Home Office is in discussion with port authorities, UK Border Agency and HMRC to look at how this option could be monitored and restricted, and work is now underway at Felixstowe to profile containers.

¹⁰ Estimates from the Home Office (at Annex 1 to Impact Assessment HO0058) and by Deloitte (2011)

C. Objectives

20. The overall policy aim was to implement a robust, modernised and comprehensive regulatory regime for the metal recycling sector that supports law abiding businesses and tackles unlawful behaviour.
21. Objectives included:
- ensuring that new regulation recognises the twenty-first century metal recycling sector;
 - reducing the regulatory burden on the industry by reducing burdens where possible and streamlining other requirements – for example, including motor salvage operators regulated by the Vehicles (Crime) Act 2001, and creating one national register hosted by the Environment Agency to more closely integrate environmental regulation;
 - providing the means to tackle unscrupulous scrap metal dealers and to remove those who are deemed unsuitable to operate from the industry;
 - closing the principal outlets for stolen metals;
 - seek greater transparency of all transactions within and into the industry;
 - raising trading standards across the industry, in doing so making the market place more hostile for stolen metal; and
 - supporting the localism agenda by empowering local authorities, police forces and wider local partnerships with the powers they need to tackle illegal behaviour by the scrap metal industry.

D. Options

Option 1 – Do not implement the SMDA 2013 (do nothing).

22. Do not enact the SMDA 2013, thereby continuing the SMDA 1964 as the regulation of the scrap metal sector.
23. There would be no direct additional cost to private, public or the third sectors as a result of this policy.
24. We would have had to predominantly rely on the measures taken in the LASPO Act 2012 to tackle metal theft, but without wider regulatory reform, no reduction in metal theft was anticipated, especially as commodity costs were predicted to continue rising until at least 2015.

Option 2 – Enact the SMDA 2013, reforming the regulation covering scrap metal dealers.

25. Option 2 was the preferred option.

The proposed new regime

The scope:

26. The SMDA 2013 covers all businesses who buy and/or sell scrap metal as the principal element of their business in England and Wales. The SMDA 2013 creates two different licences for:
- i) site licences – all eligible businesses that operate a site
 - ii) collectors – businesses who buy or sell scrap metal without a site.
27. The SMDA 2013 creates a more robust, local authority administered, regime for the scrap metal industry. This new regime supports law abiding scrap metal dealers, whilst including further powers to ensure unscrupulous dealers can be adequately dealt with, including clear and enforceable responsibilities on scrap metal dealers. We are better aligning the scrap metal and environmental permit regimes by creating a single national register, hosted by the Environment Agency.
28. The key features of the new regime are listed below.

- The definition of scrap metal dealers has been widened to include mobile (itinerant) collectors and motor salvage operators.
- Only operators considered 'suitable'¹¹ by the licensing local authority are allowed to operate as scrap metal dealers.
- Local authorities can charge a licence fee to cover the costs of administration and direct compliance activity of this regime.
- The courts have the power to close any operating unlicensed scrap metal dealers.
- All buyers of scrap metal are required to verify the identity of individuals selling scrap metal.
- The cashless offence, introduced via the LASPO 2012 Act, is incorporated into this regime as a licence condition; it is also extended to all newly registered scrap metal dealers (including collectors and motor salvage operators).
- 11 criminal offences relating to the conduct of the scrap metal dealer have been introduced, combining the licensing regimes for scrap metal dealers and motor salvage operators¹². We have removed a total of four offences from the statute book. Each new offence is triable by summary only with fines ranging between level three and level five on the standard scale. None of the offences carry a custodial sentence.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

29. The following appraisal considers the costs and benefits associated with the implementation of the proposed policy option in comparison with the baseline Do Nothing option. General assumptions used throughout the analysis are set out below. Any additional assumptions are discussed as they arise. As a number of assumptions have been made sensitivity analysis around the assumptions is presented in Section G. This demonstrates the scale and direction of potential error in the estimates of the costs and benefits as a result of the assumptions that have been made.

Enactment Stage

30. The appraisal section focuses on the key changes made to the Act during its passage through Parliament. These are:
- the inclusion of mobile (previously itinerant) collectors within the definition of scrap metal dealers;
 - the introduction of additional record keeping requirements; and
 - the introduction of additional requirements to verify the name and address of the supplier.
31. These changes largely affect businesses and have led to a significant increase in the net cost to business since the final stage impact assessment (HO0074). With the exception of extending the cashless offence to mobile collectors, most of these additional changes result in a small opportunity cost for businesses for each transaction completed.
32. The costs and benefits presented in the previous version of this impact assessment will be restated as the inclusion of mobile collectors and additional requirements mean that all figures have been recalculated.

Baseline Case

33. Earlier amendments to the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 are assumed to form part of the baseline unless stated otherwise. It is assumed that 100 per cent of registered site dealers are complying with the requirement to make payment by transparent means to named accounts.
34. The LASPO Act 2012 requirements represent a new condition for scrap metal collectors and end of life vehicle sites that were not previously registered as scrap metal sites, and so for these businesses the LASPO requirements are not included in the baseline.

¹¹ Grounds of unsuitability include considering unspent relevant convictions for offences in the Theft Act 1968, the Scrap Metal Dealers Act 1964 and relevant environmental permitting legislation.

¹² Currently regulated separately by the Vehicles (Crime) Act 2001.

35. This appraisal also assumes that under the Do Nothing option, the requirements imposed under Operation Tornado are no longer in force. Therefore, for scrap metal dealers to be operating legally they would have to adhere to the requirements of SMDA 1964 and LASPO Act 2012.
36. It is expected that some businesses would have continued to comply with the requirements of Operation Tornado as it would have been more costly to revert back to previous processes. The additional burden from the SMDA 2013 would not impact those businesses that continued to comply with the requirements under Operation Tornado (see paragraphs 45 - 49).

Number of Scrap Metal Dealers

Scrap metal sites and collectors

Table E.1

	<i>Low</i>	<i>Central</i>	<i>High</i>
Sites	2,622	2,914	3,205
Collectors	4,093	4,548	5,003
Total	6,716	7,462	8,208

37. The Act requires the Environment Agency to maintain a register of scrap metal dealer licences issued in England and Natural Resources Wales must maintain a similar register in Wales. As of March 2014, the national register contains details on 4,055 licenses from 172 local authorities. This register is continually growing as more licensing authorities submit information and more scrap metal dealers apply for a licence.
38. The register contains a number of duplicate entries. Mobile collectors, who operate by collecting scrap metal and selling it on to scrap metal sites, have to have a licence in each local authority they collect scrap metal. When the duplicate entries are accounted for the number of unique license holders in the national register falls to 3,524. The number of unique sites on the register is 1,376 and the number of collectors is 2,148.
39. This estimate is thought to be biased upwards as misspelt entries or entries that include spaces at the end will appear as a unique entry. This will only occur for a small number of entries and so will not have a significant impact on the effect of the policy.
40. Only 172 of the 348 local authorities in England and Wales have submitted information on licence holders. These 172 local authorities account for 47% of the population. To get a more representative estimate for England and Wales, the numbers of site and collectors licences submitted to the register are scaled up¹³ (by approximately doubling the number of unique entries in the register). ***This gives a best estimate of 2,914 sites and 4,548 collectors in England and Wales.***
41. Multiplying the number of sites and itinerant collectors using a single scaling factor could lead to an over- or under-estimate of the number of licences in England and Wales. The sample of local authorities that have submitted information to the national register may not be representative of all of England and Wales. If the local authorities that have submitted information are those with a larger number of scrap metal sites or collectors then this may overestimate the number of licences and vice versa. To account for this uncertainty an upper and lower bound is estimated assuming +/- 10% of sites and collectors on our best estimate. Table E.1 shows the number of sites and collectors in each scenario.
42. The introduction of the SMDA 2013 has caused the number of dealers registered to be higher than previously expected. A survey by the LGA asked councils how many of the licence applications they had received from new applicants and how many were from applicants previously registered

¹³ Scaling up by population has the same effect as scaling up by the number of local authorities not on the register. The scaling factor is 2.11 when using population compared to 2.02 if the number of local authorities were scaled up.

with them under the SMDA 1964. The 42 authorities that responded¹⁴ said they had received 1,278 applications, and of these 606 (47%) were from new applicants and 672 (53%) from previously registered dealers under the SMDA 1964.

43. It is believed that the unanticipated increase of new applicants is from both previously unregistered dealers that were operating outside of the law as well as new businesses that might have been encouraged into the market, perhaps because there is a clear legal framework in which to operate. This appraisal will potentially overestimate the costs because we have not removed the costs to those unregistered businesses that were previously acting illegally, because we cannot be sure how many newly registered businesses were previously operating illegally. Instead all businesses are assumed to be exposed to the same costs.

End of life vehicle sites

44. The new national register does not separate out whether a site is also an end of life vehicle site. In early 2013 there were approximately 1,882 end of life vehicle sites¹⁵. It is assumed that the vast majority of these sites are also scrap metal dealers and are therefore included in the estimated number of sites above.

Level of Compliance for Scrap Metal Sites

45. Operation Tornado was rolled out nationwide but compliance levels varied across regions. The British Transport Police estimated¹⁶ that the national average of scrap metal dealer sites that were compliant (including Northern Ireland) was 84.4 per cent and were therefore likely to meet the recording and verification requirements that are included within the SMDA 2013. It is expected that some scrap metal dealers would continue to voluntarily comply with the Tornado requirements after the Operation stops, but some dealers would revert back to previous industry practice. Sites that would remain voluntarily compliant are not affected by the additional requirements under the SMDA 2013 (see paragraph 71).
46. The Do Nothing option assumes that Operation Tornado ceases and SMDA 2013 is not implemented. This scenario is hypothetical and so estimating the level of compliance is difficult¹⁷. The British Metals Recycling Association (BMRA) suggested that the level of compliance prior to Operation Tornado was minimal, and so in the baseline case (without SMDA 2013) the level of voluntary compliance once Operation Tornado ceased could be between 0 per cent and 84.4 per cent.
47. The worst case scenario for the baseline case assumes that all scrap metal dealers will no longer comply with the requirements imposed by Operation Tornado, and so voluntary compliance is zero per cent. This assumption is strong, as reverting back to previous industry practice may be a more costly alternative for some businesses than continuing to comply with the Tornado requirements¹⁸.
48. The best case scenario assumes that the number of sites complying is half the level under Operation Tornado (42%). It is possible that the level of residual compliance could be even higher than this, but as we have no firm evidence to support this assumption we have adopted a fairly conservative 'best case' estimate. The central estimate is taken to be the mid-point of this range (21%).

¹⁴ There are 348 local authorities in total so the responses cover just over 10% of all local authorities.

¹⁵ This assumption is provided by the Environment Agency. It is the number of sites permitted to process end of life vehicles in early 2013. The national register does not split out a site licence and an end of life vehicle licence as under the new act they are the same, and so a new updated figure is not available.

¹⁶ Operation Tornado review conducted by the British Transport Police

¹⁷ The BMRA were consulted, but due to the hypothetical situation that this scenario assumes they were unable to provide any further clarity around the level of compliance.

¹⁸ Dealers not complying with Operation Tornado often receive more focussed police attention so dealers may comply with Operation Tornado as the less costly alternative of the options available to them. Sensitivity analysis demonstrates the potential impact and direction of error in this assumption. Results for between 0 and 42.4 per cent voluntary compliance are presented in Section G.

Volume of Repeat Trade

49. The BMRA believe that repeat visits account for 85 per cent or more for its members¹⁹ and between 10 per cent and 85 per cent for the smaller end of the sector. The BMRA's members process over 95 per cent of the metallic scrap in the UK every year²⁰, meaning that the proportion of repeat trade is likely to be somewhere between 81 per cent²¹ and 85 per cent²². The central estimate assumes the midpoint of this (just over 83%). Table E.2 shows how the estimates were calculated.

Table E.2

	BMRA	Small and Micro Businesses	Total
Proportion of Transactions	95%	5%	
Proportion of Repeat Trade (Worst)	85%	10%	81% ²³
Proportion of Repeat Trade (Best)	85%	85%	85% ²⁴
Proportion of Repeat Trade (Central) ²⁵	85%	48%	83% ²⁶

Other Assumptions

50. The hourly cost of an employee is assumed to be £15, a standard assumption used in previously published impact assessments and based on the Standard Cost Model.
51. Scrap metal sites are assumed to process approximately 65 transactions per day based on information from the BMRA²⁷. Scrap metal collectors are assumed to process 15 transactions per day based on evidence from the British Transport Police²⁸.

COSTS - OPTION 2:

Transition costs

Environment Agency

52. *Creation of new national register* - The Home Office provided £110,000 funding to the Environment Agency for the development of the new national register of licensed scrap metal dealers. There are separate registers for England and Wales, but the Environment Agency will host both registers. This means that the Natural Resources Body for Wales incurs minimal cost. There will be additional costs related to additions to the register, which are covered in paragraph 66.
53. *Staff awareness* - The Environment Agency and the Natural Resources Body for Wales also had to undergo training and education to understand the new regulations. There is an opportunity cost to these public bodies from staff having to spend time learning the new regulations. The Environment Agency estimated this cost to be £29,000.

¹⁹ Therefore, it is expected that the majority of transactions completed by scrap metal dealers will not be subject to repeated identification checks (see paragraph 71).

²⁰ http://www.recyclemetals.org/about_bmra. This is based on the level of tonnage processed and not necessarily the number of transactions. Due to a lack of information regarding the number of transactions between large and small firms it is assumed the level of tonnage is equivalent to the level of transactions.

²¹ The worst case scenario assumes that small firms have repeat trade of 10% and BMRA members have repeat trade of 85%. As smaller firms make up only 5% of the total trade the level of repeat trade is 10% x 5% plus 85% x 95%, which equals 81.25%.

²² The best case scenario assumes that all have repeat trade of 85%.

²³ $0.95 \times 0.85 + 0.05 \times 0.10 = 0.81$ or 81%

²⁴ $0.95 \times 0.85 + 0.05 \times 0.85 = 0.85$ or 85%

²⁵ The central estimate is taken as the mid-point between the best and worst scenarios

²⁶ (4) $0.95 \times 0.85 + 0.05 \times 0.48 = 0.83$ or 83%

²⁷ The BMRA have revalidated this assumption (04/06/14). The number of transactions per day will vary across dealers, and 65 is meant to reflect the average.

²⁸ The BTP collected data on the average number of transactions completed by itinerant collectors in Gwent police force. This may not be representative of collectors across England and Wales but is the best available source.

Local Authorities

54. *Amend local infrastructure* - Transition costs also fall to local authorities. Local authorities had to spend time training staff, updating websites and databases and calculating fees. Data from the LGA shows that the total transition costs for 32 London Boroughs were approximately £3,700, and for 201 District Councils varied from £820 to over £1,900²⁹. No data was provided for unitary authorities and so an average was used. The central estimate assumes that transition costs were £1,700 for each local authority, ranging from £1,200 to £2,200³⁰. Therefore total transition costs are estimated to be between £0.4 million and £0.8 million, **with a best estimate of £0.6 million.**

Businesses

55. *Non-cashless payments* - The LASPO Act 2012 prohibited cash payments for scrap metal dealers but did not include mobile collectors and all motor salvage operators. Using the same assumptions as for the introduction of the cashless offence³¹ each business will have one-off set up costs of £0 to £250, with a best estimate of £125. The majority³² of motor salvage operators are already assumed to have a scrap metal dealers licence, but all collectors will be affected. **This gives a one-off cost of £0.6million.** This could be an over-estimate as it is expected that some collectors would have the capability to process non-cash payments. If the proportion of collectors able to process electronic payments were 20%, this would reduce the one-off costs by just over £0.1 million.
56. *Basic disclosure check* – All scrap metal dealers, including itinerant collectors and motor salvage operators, need to complete a basic disclosure check before applying for a licence under this option. A basic disclosure check costs £25 and will impact on all businesses. **This provides a cost to business of approximately £0.2million.** Local authorities risk manage basic disclosure checks and high-risk firms may be required to reapply for a basic disclosure check every time their licence is renewed. It is not possible to estimate what proportion of businesses this would impact on, but if all businesses were affected then there would be an additional cost of £0.2million every three years, which increases the overall net present costs by approximately £450,000. This is the maximum estimate, given the number of businesses, and it is extremely unlikely that this level of recurring cost will occur.
57. *Storage facilities* - Under the SMDA 2013 a dealer must verify the name and address of the person they receive scrap metal from and keep a copy of this for three years. Some small dealers may need to acquire access to equipment to make a hard or electronic copy (although this could include a smart phone or camera). Some dealers may also need to set up a database or record keeping facility in order to comply with the Act as they were exempt from certain record keeping requirements under the previous SMDA act. The BMRA suggest that all dealers had to invest in additional resources to comply with the new Act, but were unable to suggest exactly how much due to the large variation amongst different businesses. Smaller firms are expected to use paper files, whereas larger firms are expected to expand their current systems to accommodate the new requirements.
58. It is assumed that the cost to business from having to invest in new storage facilities is equal to the purchase of one filing cabinet per dealer. The cost of a filing cabinet is taken from three companies³³. The prices for a four drawer cabinet, which is one of the larger specifications, varies from £96.78 to £277.49 (excluding VAT) and so a central estimate of £190 is used. **This gives a total cost to dealers from improving storage facilities of £1.4 million.** This may overestimate the costs to business because it is possible that dealers may have already had storage facilities in place. It is also possible that many of the fixed costs of investment will be sunk costs arising from

²⁹ Email from LGA Policy dated 8th July 2014.

³⁰ The lower bound was estimated by $32 \times 3,700 + 201 \times 820 = 284,000 / 233 = £1,219$. The upper bound was estimated by $32 \times 3,700 + 201 \times 1,900 = 502,000 / 233 = £2,200$.

³¹ <http://www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/laspo-metal-theft-ia.pdf>

³² Motor salvage operators would have needed to have applied for an exemption not to also have a site licence. It is not possible to separate out the number of sites and motor salvage operators in the national register, and so the actual number of end of life vehicle sites is unknown. Although not all motor salvage operators would have been previously registered as a site, it is expected the vast majority (between 95% and 100%) would have been, and so for modelling purposes it is assumed that all motor salvage operators also owned a site licence.

³³ Staples, Ryman and www.directofficesupply.co.uk

ensuring compliance for Operation Tornado. On the other hand, the cost to business may be higher if firms invest in more sophisticated recording and data recovery systems, meaning there is a large amount of uncertainty surrounding this assumption.

59. **Transition costs to businesses, therefore, total £2.2 million.**

Application process and issuing of the licence

Businesses

60. *Applying for a licence* - Scrap metal dealers, mobile collectors, and motor salvage operators were already required to provide personal and business information when they applied for a registration under the SMDA 1964 and/or the Vehicles (Crime) Act 2001. Under the SMDA 2013, the additional information they are required to complete is:

- information on a bank account they intend to use to evidence the ability to make non cash payments;
- information on the previous scrap metal dealer licences held over the past three years (only the local authority in which they were issued);
- information on other environmental permits that the company holds; and
- the address of each additional site that the company operates in the course of their business as a scrap metal dealer within that local authority area.

61. Evidence of the extent of this additional burden has come from consultation with the trade association of the scrap metal industry, BMRA, and with two scrap metal dealers. The dealers thought the additional time required to complete the application form based upon the further information that asked for could take as little as five minutes. However, scrap metal dealers operate with varying degrees of administrative productivity, so a higher estimate of 15 minutes additional time is used in order to reflect the different nature of scrap metal dealers.

62. Using the assumption that an employee earns £15 per hour³⁴, there is an additional cost of £3.75 per business³⁵. ***The total cost to all scrap metal dealers (including collectors) of the application process is approximately £28,000 every three years.***

63. There is also a cost saving as a number of scrap metal dealers will no longer have to register separately as a motor salvage operator. This is covered in the benefits section.

Local Authorities

64. *Considering applications* - Local authorities are required to ensure that only applicants considered "suitable" are issued with a licence. Therefore they need to undertake checks to ensure suitability. These checks involve consulting relevant police forces and completing appropriate background checks. Where applications are successful, the local authority must submit the relevant information to the Environment Agency and Natural Resources Wales for inclusion on the national register. The licence fee is set to cover the costs to local authorities of running and ensuring compliance with the licensing scheme. As a result, the fees should offset the costs of issuing licences and ensuring compliance with the Act's requirements. However, they will not offset any additional costs resulting from appeals of dealers who are unsuccessful in their applications for licences. This is considered in the sensitivity analysis in Section G.

65. *Issuing a licence* – Local authorities are required to issue a licence in a form that can be prominently displayed and for the licence to include particular information which has been outlined

³⁴ Using a standard assumption that the cost of a scrap metal dealer's time is £15 per hour. The Standard Cost Model was designed specifically to cost the baseline administrative burden of Government policies. Based on this model, an average wage of £15 per hour was considered appropriate for employees likely to carry out such administrative tasks and reflecting the fact that the relevant wage is likely to vary across companies of differing sizes. This includes non-wage labour costs. This assumed average wage was checked against ASHE data. The national average wage for administrative occupations was around £10 in 2010. After adjusting for inflation and applying a standard non-wage labour cost mark-up of 16.4 per cent (based on Eurostat data and BIS advice), the average wage approaches £13. This is believed to be consistent with the £15 assumption, especially considering that scrap metal firms are likely to be smaller than average in general, implying that in some instances the administrative tasks may be carried out by more senior employees with higher wages.

³⁵ £15 x 0.25 hours = £3.75

in the Act. Therefore local authorities are required to design, produce and issue such a licence. Local authorities already do this for other licences that they issue so the capability exists – e.g. taxis. The cost of issuing each licence is covered by the licence fee.³⁶ ***It is assumed that half of the licence fee income, £0.37million, covers the costs of considering applications and issuing a licence.***

Environment Agency

66. *Ongoing costs of the national register - **Annual support costs are likely to be around £60,000 each year***³⁷, but this cost will vary depending on the number of entries to the national register. Whilst a local authority can recover any costs incurred in transmitting information about a licence for inclusion on the register, the costs which the Environment Agency incurs are not chargeable under the licence regime.

Licence fee

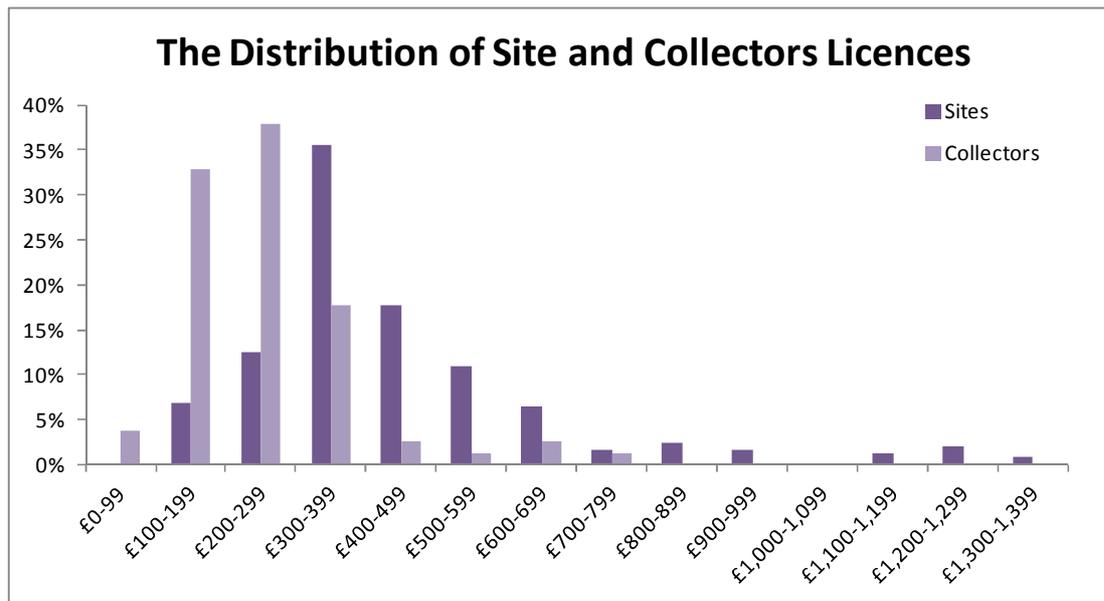
67. The Act created a fee raising power for local authorities, allowing them to charge a licence fee to cover the costs incurred with administering the new regime and ensuring compliance with it. The fee is set by each local authority on the basis that costs are likely to vary locally and some local authorities may incur higher costs for the same service. The Home Office has issued guidance that local authorities have a duty to have regard to, which outlines what the fee can and cannot be used to for – this guidance is endorsed by HM Treasury to ensure it reflects the rules around local government finance.
68. Evidence from the BMRA shows that 66% of site licences are between £200 and £500 (see Graph E.1). This is based on responses to a survey from members of the industry and from data submitted by local authorities. The total number of councils accounted for is 247 (70% of all local authorities). The maximum known fee for a site licence is £1,355 and the minimum is £102. The maximum and minimum fees are thought to be outliers and so do not form the upper and lower bound. Instead the lower bound is assumed to be £200 and the upper bound is £500, providing a best estimate of £350. This is consistent with the mid-point of the most frequent fee band in Graph E.1.
69. There is also some evidence on collectors' licences, although the sample size is much smaller at 79³⁸. The fee for the collectors licence is usually set at a lower rate as these licences do not require site visits, and this can be seen in Graph E.1 below. The evidence shows that 89% of collector's licences lie between £100 and £400, and the midpoint is £250. The known maximum fee (£755) and minimum fee (£70) are again assumed to be outliers and are excluded from the analysis. The upper bound for a collector is assumed to be £400 and the lower bound assumed to be £100. Our best estimate of £250 is again consistent with the most frequent fee band in Graph E.1.

³⁶ See the benefits section for discussion on licence fee income for local authorities

³⁷ The Home Office are paying the Environment Agency £29,000 for maintenance costs of the register between October 2013 and March 2014. This has been extrapolated to get an annual figure.

³⁸ This is only 22% of all local authorities and so may not be representative of the rest of England and Wales.

Graph E.1



70. Assuming 2,914 site licences and 4,548 collector's licences are issued every three years, **the cost to business is approximately £2.2 million every three years**. This translates into an annual cost to business of £0.9 million. The actual fee level varies among local authorities, so the true business impact may differ from that estimated. Sensitivity around different levels of the fee is included in Section G.

Licensing process

71. The SMDA 2013 imposes a variety of requirements in relation to the conduct of scrap metal dealers. These can predominantly be placed into two distinct categories and are outlined below.
- **Keeping of records** – Scrap metal dealers are already required to keep records of the metals they purchase and dispose of, including the seller's/receiver's name and address, description and weight of the scrap metal, time and date of the receipt; the price paid or the estimated value of the scrap metal; the vehicle registration mark. This requirement was added to by the LASPO Act 2012 which required information on payment to also be recorded. The SMDA 2013 consolidates this but extends slightly the recording of the metal's description (including its type, condition and any identifying marks in addition to its weight). This information is recorded by parts of the industry as good practice, but it is assumed it will take no longer than **one additional minute per transaction** to complete this additional requirement.
 - **Verification of name and address** – Scrap metal dealers are required to verify the name and address of all sellers based upon documents, data or other specified information. This requirement is based upon the conditions of Operation Tornado. It is assumed that an additional **three minutes will be required per affected transaction**³⁹. It is expected that this cost will only be relevant to transactions where the customer is new because scrap metal dealers would, as part of their record keeping, retain copies of these identity documents. The proportion of new trade is assumed to be around 19% (see paragraph 49).
72. These costs are only additional burdens on those sites who would not voluntarily comply with the conditions of Operation Tornado if the operation stopped and the SMDA 2013 not implemented. Paragraph 45 shows that the proportion of sites that are assumed to voluntarily comply with the

³⁹ This estimate is based on discussions with the British Metals Recycling Association (re-validated on 04/06/14) and scrap metal dealers. They estimate that it takes between 10 and 15 minutes to complete an average transaction, from the point where the seller arrives, to having the material weighed, sorted, records completed and payment made. Discussions with scrap metal dealers who already retain identification as part of their routine business suggest that they can complete identification checks within three minutes. It is assumed that this could require as much as 5 minutes of additional time based on this information.

above requirements is 21%⁴⁰. It is further assumed that there will be an additional burden on all mobile collectors as they were not included within the scope of Operation Tornado. Adjusting for differences in the levels of transactions (65 for sites and 15 for collectors) gives an average non-compliance rate for all dealers of 84%.

73. The burden on sites for additional record keeping is 1 minute per transaction. Sites are assumed to carry out 65 transactions per day and are assumed to be operating for 253 days a year. This means that the additional burden per site is approximately 274 hours a year. Given the average wage of £15 per hour, the average cost to a site is around £4,100 a year. This burden only applies to those sites that are not already assumed to be voluntarily compliant (2,299 sites⁴¹) and so the annual cost to sites is £9.4million.
74. The process for estimating the cost to sites of the verification of identification process follows the same principles. However, the additional burden is 3 minutes per transaction and only occurs on around 17% of transactions, as it only affects non-repeat trade. This gives an additional time burden of 83 hours a year, and an average cost to a site of £1,200. The annual cost to all sites is £4.8million
75. Again the process is the same for estimating the cost to collectors. Collectors only carry out 15 transactions a day and so the additional time burden a year is lower, at 63 hours for record keeping and 19 hours for verification of name and address. This gives an average cost to a collector of £1,200, which when multiplied by the number of collectors gives an annual cost to collectors of £6.5million.
76. ***This results in costs of approximately £20.7 million*** to scrap metal dealers (both sites and collectors) each year. These costs are opportunity in nature and are unlikely to be overly burdensome for businesses. It is expected that scrap metal dealers will integrate these additional checks into their transactions easily without affecting the number of transactions processed per day.
77. The additional transaction time is also a cost to customers. Customers are businesses or individuals who are selling scrap metal to either a site or a collector. It is difficult to provide a reliable estimate of the proportion of customers that are businesses and the proportion that are members of the public. The BMRA believes that the numbers of customers, but not the number of customer visits are roughly equally split between businesses and members of the public. Therefore, it is assumed that 50 per cent of scrap metal customers are businesses and 50 per cent are members of the public
78. Although the average wage of these customers could differ from that of the scrap metal dealers, there is no detailed information on customers to help inform this. For simplicity it is assumed that the average wage, including on costs, is £15 per hour – the same as assumed for scrap metal dealers. The same assumptions as described above for proportion of new customers and proportion of dealers already complying remain the same. ***The annual cost to customers is therefore £10.4 million to business and £10.4 million to individuals.*** Note; repeat customers to whom no cost applies (because dealers will already hold their details) are more likely to be businesses. These estimates are therefore likely to overestimate the business impact and underestimate the individuals' impact.
79. Businesses may also have to spend additional time demonstrating to local authorities that they are compliant with the proposed regulations. It is not envisaged that this will not be a large additional burden as scrap metal dealers are already legally required to keep records of all transactions which must be made available to local authorities to prove compliance. The additional cost to business is assumed to be the same as the cost to local authorities for compliance activity (see paragraph 83). ***This is an additional cost of £0.4 million a year.*** This may overestimate the cost to business as the local authority has additional burdens, for example driving to sites, which would not be a cost to business. However, this is not a significant cost driver.

⁴⁰ This is the mid-point of 0% and 42.2%. The Operation Tornado review carried out by the BTP found that 84.4% of yards in England, Wales and Northern Ireland signed up to the measures implemented under Operation Tornado. The best case scenario assumes half of those businesses will continue to comply, whilst the worst case scenario assumes that nobody will continue to comply with the Tornado requirements.

⁴¹ There are 2,914 sites and 21% are assumed to be voluntarily compliant. Therefore 2,299 sites are not compliant.

80. There may be an increase in police enforcement of unlicensed dealers as they will simply be able to check whether a person is licensed by accessing the scrap metal dealers register. This is not included as a cost to business as unlicensed dealers would be acting illegally. Due to the increased ability to monitor whether dealers own a licence and intelligence from compliance checks by local authorities, the police are assumed to only carry out enforcement checks on dealers acting illegally. If the police carried out an enforcement check on a compliant business there would be a cost to the business, but this would have to be a large proportion of the time to be a significant cost⁴².
81. There may also be ongoing costs of storing personal information securely. These costs are not considered additional costs to business. Under the Do Nothing scenario dealers must already keep records of all the items described in paragraph 71. The SMDA 2013 only extends this to include a few additional items that do not need to be stored at a higher security level.
82. The SMDA 2013 extends the cashless offence⁴³ to mobile collectors, motor salvage operators not otherwise registered as scrap metal dealers prior to the introduction of the SMDA 2013, and other businesses who buy or sell scrap metal as a core component of their business. As a result, an estimated 4,548 collectors will now need to comply with the cashless offence. Using the same assumptions as for the introduction of the cashless offence (see HO0058 for further details we estimate that this will generate net annual costs⁴⁴ of between £3.9 and £6.7million each year for business, **with a best estimate of £5.2 million.**

Seeking compliance

83. *Local authority compliance activity* – While police forces are involved in enforcing the SMDA 2013, most activity will be carried out by local authorities who are responsible for ensuring that licensed dealers are complying with the direct requirements of the licence. This includes ensuring that dealers are maintaining accurate records of transactions and not buying scrap metal for cash. All local authority compliance is funded by the licence fee that is collected at the point of application. All costs associated with compliance of the unregulated sector needs to be met by local authorities using existing funds. **It is assumed that half of the fee income, £0.4 million a year, covers this compliance activity.** The other half covers the costs to local authorities of processing applications (paragraph 65).
84. *Environment agency compliance activity* - The Environment Agency will continue to seek compliance with environmental regulation and is funded separately, not least through environmental permit fees. The Environment Agency is also required to take compliance/enforcement action against scrap metal dealers who do not have the necessary environment permits. They estimate that there are between 120 and 160 dealers where enforcement action is being taken and a separate Taskforce has been set up for this purpose.
85. *Police enforcement* - the BTP have indicated that there has not been an increase in enforcement activity since SMDA 2013 was enacted, and therefore there is not an opportunity cost to the police in additional enforcement. Instead the BTP have said there has been a change in the focus of enforcement away from scrap metal sites and more towards itinerant collectors.
86. *Police ordered licence review* -The police can also provide the local authority with information to question the licensee's suitability which may trigger a local authority licence review. This process is administered by the local authority and so would represent an additional, opportunity cost to local authorities. Additional costs to the police per review are likely to be small but may require a reallocation of resource. The total opportunity cost to the police will depend on the extent to which this power will be used which cannot be anticipated.
87. *Local authority appeals mechanism* - The SMDA 2013 created an appeals mechanism to refuse to issue/reissue a licence or to revoke a licence or to impose conditions. Appeals are made to the local authority licence panel in the first instance, followed by a magistrates' court. Appeals to a local

⁴² If an enforcement check took half a day there would be an opportunity cost to business of £60 in staff wages. There could also be a loss in business during the check, but the average value of a transaction is unknown.

⁴³ Introduced as an amendment to the LASPO Act 2012 and commenced on 3rd December 2012.

⁴⁴ There will be some savings generated by no longer operating in cash

authority follow existing procedures in place for other locally administered licensing schemes. There would be an opportunity cost for this system as time spent dealing with scrap metal dealers' licence appeals would prevent the panel from dealing with appeals against other licence refusal decisions. This would be an opportunity cost of £1,333 per case to local authorities⁴⁵ and a cost of £1,470 per case to businesses⁴⁶. Since there were no refusals under the old scheme, a range of potential refusals are modelled. The upper bound scenario assumes five per cent of applications are refused annually and 50 per cent of these are appealed and the lower bound scenario assumes of zero refusals. The best estimate assumes 2.5 per cent of applications are refused and 50 per cent appealed. **This is estimated to cost local authorities £48,500 a year and businesses £8,400 a year.**

88. *HM Courts and Tribunal Service (HMCTS) appeals* - A small number of appeals may ultimately lead to the magistrates' court to appeal decisions made at the local authority panel stage; in addition, an appeal could be made to the Crown Court to appeal a decision by the magistrates' court regarding the issue of a closure order. It has not been possible to monetise these costs but they would involve costs to the HMCTS, as well legal counsel for the defendant (the dealer) and the local authority or police force. Only a few cases are expected to be brought before a magistrates' court, so the costs are expected to be minimal.
89. *Prosecutions* - Regulatory changes may lead to an increase in the number of offenders brought before the courts. In 2012 there were 68 defendants proceeded against for offences contained in the SMDA 1964.⁴⁷ This is a large increase (threefold) on the volume of proceedings in 2010.
90. It is expected that more proceedings will take place against the SMDA 2013 Act because of the new, stricter proposals and the greater focus on compliance activity by local authorities. However, the number of cases impacting on the Criminal Justice System (CJS) and HMCTS is not expected to increase significantly. This is because cases that were previously being brought before the courts under the Theft Act 1968 will now be able to be proceeded against under SMDA 2013. Therefore, there is a transfer of cases from one offence to another.
91. The offences are summary and could result in a maximum penalty of a fine between level 3 to 5 on the standard scale. The offences will cover both individuals and businesses. Legal aid is unlikely to be available for these offences (given that legal aid is means tested and must satisfy the interest of justice test), and none of the offences will have a custodial sentence. We use average costs from across summary non-motoring offences to estimate the cost the Criminal Justice System of an offence under the SMDA. The costs per case are estimated to be £270 for HMCTS and £160 for CPS. Annex 1 sets out the assumptions and risks associated with these estimates.
92. These figures have been provided by the Ministry of Justice and are in 2012/13 prices. As stated above, there are unlikely to be costs to the Legal Aid Agency, and there are no costs to the National Offender Management Service (NOMS).
93. This gives an average cost of £430 per offence. The number of additional offences likely to be prosecuted is not known so our best estimate assumes a ten per cent increase in the volume of offences, approximately seven additional offences.⁴⁸ This is to reflect the stricter proposals as well as any increase in enforcement activity. **This would represent an additional cost of approximately £3,000 to the Criminal Justice System, £2,000 of which falls to HMCTS.** These additional offences could lead to more fine enforcement activity being required, but it was not possible to quantify this as current levels of fine enforcement are not known. Additional costs to the CJS could result from the appeals process as described above. These costs could not be quantified as it is not known how many of these appeals there might be.

⁴⁵ Administrative cost of an appeal of the refusal of an alcohol licence. This was estimated at £1,100 in 2004 prices and so is uplifted to 2012/13 prices. The GDP deflator from 2004 to 2012/13 is approximately 21.2%

⁴⁶ Based on the cost to licence holders of companies applying for alcohol licences. This was estimated at £1,339 in 2008 prices and so is uplifted to 2012/13 prices. The GDP deflator from 2008 to 2012/13 is 9.8%. <http://www.parliament.uk/documents/impact-assessments/IA10-149.pdf>

⁴⁷ MoJ Criminal Justice Statistics. All statistics are given on a principle offence basis

⁴⁸ This is an assumption made on the basis that the latest number of offences reflects stricter enforcement of the scrap metal market through Operation Tornado. There was a large increase in the number of offences under the SMDA 1964 between 2010 and 2011 which is attributed to greater enforcement activity by police forces. Therefore, we would not expect a substantial increase in offences brought under the new Act. The upper bound considers the costs if the number of offences doubled as a result of introducing the new Act.

BENEFITS – OPTION 2:

Crime

94. The measures proposed under Option 2 are designed to tackle non-compliant scrap metal dealers more effectively than the regulations that were set out in the SMDA 1964. In doing so, the measures are expected to tackle the scrap metal dealers who operate the market for stolen metal which has driven metal theft offences; therefore Option 2 is likely to reduce metal theft relative to the Do Nothing option. The reasons for this reduction are outlined in Section B.
95. A crime reduction benefit from Option 2 has not been estimated due to the large potential range of outcomes. Instead break-even analysis is conducted to estimate the required reduction in crime needed in order to offset the policy costs and provide a positive net present value.
96. The Home Office estimated the cost of metal theft to be at least £220 million in 2010⁴⁹. This can be broken down into direct and indirect costs. All of the direct costs (£128 million) fall on business, while 90 per cent of the indirect costs (£81 million) resulting from transport delays, loss of internet or electricity services, fall on business. The remainder (£11 million) is assumed to fall on individuals. Other estimates include Deloitte (2011) that estimated metal theft to be between £220 million and £260 million and ACPO (2010) that estimated metal theft to be £777 million.
97. Using the Home Office estimate and assuming the cost of metal theft to be £220 million a year, the cost of metal theft would have to be 22 per cent lower compared to 2010 levels in order for the policy to break-even. The upper and lower bounds are mentioned in the NET EFFECT section.
98. The cost of metal theft in the UK may have changed from 2010 levels prior to SMDA 2013 coming in to force. The baseline may have moved because Operation Tornado is likely to have increased compliance amongst scrap metal sites, and because LASPO was introduced in 2012. There was also a 40 per cent reduction⁵⁰ in the number of metal theft offences from Q1 2012/13 to Q4 2012/13⁵¹, which is likely to have reduced the cost of metal theft in the UK. If the cost of metal theft in the UK is lower because of these changes then crime would have to decrease by a greater proportion for the policy to break-even.
99. Operation Tornado trialled many of the proposed features set out in the Act during 2012. While there has been no formal evaluation of Operation Tornado, ACPO suggested that metal theft offences reduced by 48 per cent between January 2012 and April 2013⁵². However, it is not possible to say how much of the decline in metal theft can solely be attributed to Operation Tornado or other LASPO measures, as external factors such as the price of metal might also have had an impact. Graph E.2 shows the price of copper over time⁵³, and it indicates that the price of metal has fluctuated over the period from January 2012 rather than decreased. Therefore, the price of metal may not have impacted on the level of metal theft and Operation Tornado may account for the large fall in metal theft offences.

⁴⁹ LASPO impact assessment, Annex 1

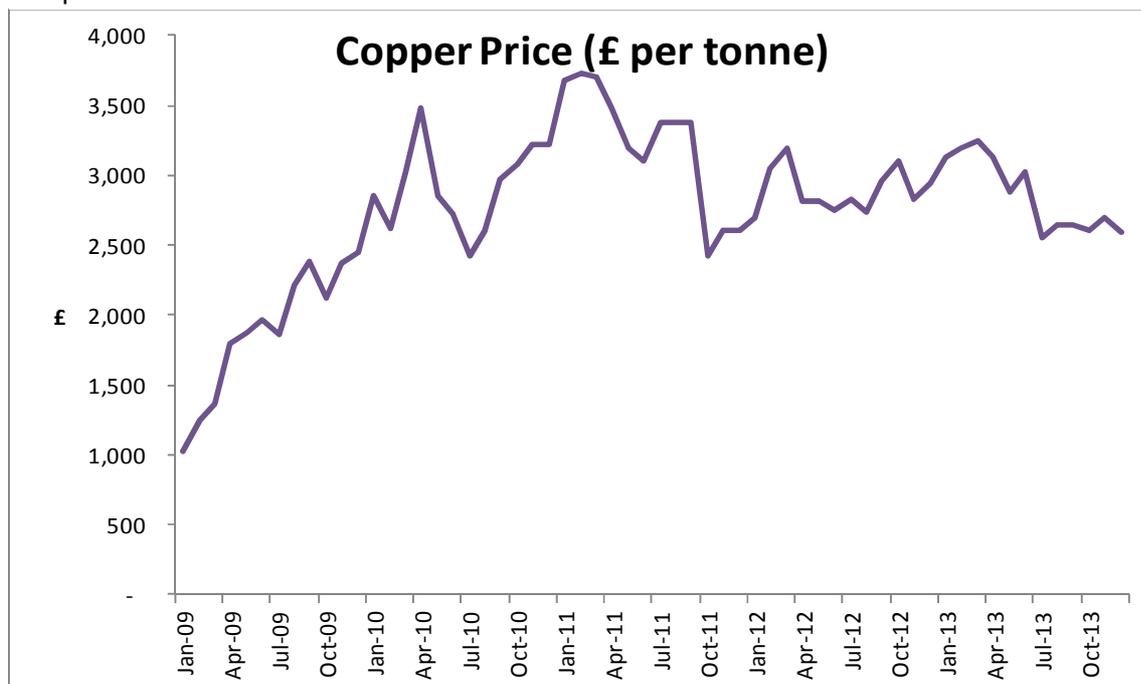
⁵⁰ <https://www.gov.uk/government/publications/tables-for-metal-theft-england-and-wales-financial-year-ending-march-2013>

⁵¹ The financial year end is March 2013.

⁵² Operation Tornado Review, British Transport Police, 8th April 2013

⁵³ <http://www.letsrecycle.com/prices/metals/ferrous-metals>.

Graph E.2



100. This significant reduction in metal theft would appear to indicate that regulation and enforcement has at least been somewhat effective, and also suggests that the propensity to steal metal is somewhat elastic. As such, it is conceivable that there is scope for metal theft to be the required 22 per cent lower compared to the baseline in order for the policy to break-even.
101. Under the Do Nothing option Operation Tornado would cease and as with the costs section it is assumed that only 16 per cent of businesses would keep adhering to the requirements set under Tornado⁵⁴. Therefore, under the Do Nothing scenario it is assumed that metal theft would increase back towards the levels in 2010.
102. By implementing Option 2, it is assumed that metal theft is being held at a level up to 48 per cent lower when compared to the baseline. The level of metal theft experienced under Option 2 may even be lower than this, because the SMDA 2013 goes further in its requirements than those set during Tornado, which lends extra weight to the fact that the crime reduction savings required in this break-even analysis are feasible.
103. If metal theft were kept 48 per cent lower under Option 2 there could be maximum benefits of approximately £105 million to society from implementing SMDA 2013, of which £100million would be attributed to businesses^{55,56}. This is a rough estimate and is based on the cost of metal theft in 2010. The caveats to this figure are described above and because of the uncertainty surrounding this are not included in the net present values shown in the NET EFFECT section.

Fees

104. Local authorities will receive fee income from scrap metal dealers. ***This is estimated to total £2.1 million every three years, which is equivalent to an annual benefit of £860,000 a year.*** This fee will cover costs associated with administering the licence and LA compliance activity of the requirements, as mentioned in the costs section.
105. The SMDA 2013 repealed separate regulation of motor salvage operators in the Vehicles (Crime) Act 2001 whereby operators needed to obtain a licence from local authorities. As a result of the SMDA 2013, only one licence is needed to both operate as a scrap metal dealer and as a motor salvage operator. As they previously paid a licence fee, this represents a benefit to the 1,822 firms

⁵⁴ As in paragraph 73, 79% of sites are assumed to be voluntarily non-compliant and 100% of collectors are assumed to be non-compliant. Adjusting for differences in the levels of transactions (65 for sites and 15 for collectors) this gives an average non-compliance rate for all dealers of 84%.

⁵⁵ This assumes that metal theft would not fully increase back to the levels seen before Operation Tornado because 8% of scrap metal dealers are assumed to voluntarily comply with the regulations set under SMDA 2013.

⁵⁶ £56 million would be on direct costs, and £36 million on indirect costs.

who held these licences. The fee paid varied by local authority but it was estimated to be approximately £100 every three years. **This represents a total saving of £60,000 to businesses per year.** There will also be a small additional saving to businesses that no longer have to complete the registration process for this licence scheme. This benefit has not been quantified as the time saved will be small and will only occur every year. For example, if the time savings were 5 minutes per motor salvage operator then there would be total savings to business of £150 a year.

Additional Services

106. Fee income will fund additional services as explained in the 'Costs' section. While the benefits of the provision of additional services are expected to largely be in the form of a crime reduction effect, there may be other non-identified, non-quantified benefits. For instance, efficiency savings resulting from closer working relationships between authorities and scrap metal dealers. No such additional benefits have been quantified.

CJS Fines

107. If more convictions due to non-compliance are made then there will be additional fine income to the Criminal Justice System. The best estimate in the cost section assumes that there will be 7 additional convictions under the new Act. The average fine set for summary offences committed by companies and public bodies is £775⁵⁷. Assuming that all convictions result in a fine for offenders and that 75 per cent of fines are paid⁵⁸, **the total additional fine income is estimated to be approximately £4,000 per year.** The money collected in relation to fines went to Her Majesty's Treasury to the Consolidated Fund and the MoJ received a proportion of this under the Fines Incentive Scheme. This remains the case with this Act. Approximately 10 per cent of the fine income, estimated at £400, is likely to go towards funding victim services through the Victim Surcharge.⁵⁹

Tax Receipts

108. By extending the use of cash payments to motor salvage operators and mobile collectors it is expected that tax receipts will increase, which is a benefit for HM Treasury. It is not possible to estimate this expected increase as the value of the illicit scrap metal industry conducted in cash is not known.

109. Although there has been no robust evidence of tax receipts increasing there has been anecdotal evidence of the value of business increasing. Paul Crowther, Chief Constable of the British Transport Police, speaking about metal theft, said that "one yard had previously reported £300,000 worth of business and this then went up to £2million." This anecdotal evidence shows that the number or value of transactions that are being recorded are increasing, which will benefit the Exchequer.

NET EFFECT

110. The net effect of this policy is a cost of **£410 million** over ten years as demonstrated in Table E.3. This is a significant increase from the final stage impact assessment as a result of changes made to the bill as it progressed through Parliament, an unexpected increase in the number of scrap metal dealers assumed and better information surrounding assumptions. The majority of the increase results from the increased cost to businesses of complying with additional record keeping and identity verification requirements. These requirements increase the amount of time required to complete each transaction and will be realised as opportunity costs.

⁵⁷ Taken from Ministry of Justice, Sentencing Statistics 2013. £775 is the mean, whilst the median is £400. The median is taken as a lower bound estimate.

⁵⁸ As advised by the Ministry of Justice publication, taken from *Victim and Witness Consultation Responses*, available at: <https://consult.justice.gov.uk/digital-communications/victims-witnesses/results/ia-victim-witness-combined.pdf>

⁵⁹ From 1 October 2012 all individuals given any disposal on conviction will be required to pay the Victim Surcharge. The amount payable has been estimated on the basis of information available in the latest MOJ guidance. This is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/172294/increase-extension-victim-surcharge-circular-2012-05.pdf.pdf

111. A number of assumptions were made in the calculation of the costs and benefits of Option 2. Sensitivity analysis demonstrates the scale and direction of potential error resulting from these assumptions. The details and results of this analysis can be found in Section G.

Table E.3

Agency	Annual Average Net Benefit (£m)	Present Value Net Benefit (£m)
Business	-£37.1	-£319.8
Individual metal sellers	-£10.4	-£89.1
Local authorities	-£0.1	-£1.0
Environment Agency	-£0.1	-£0.7
Criminal Justice System	£0.0	£0.0
Total	-£47.7	-£410.6

112. The net present value is negative; however crime reduction benefits and increased tax receipts have not been included in the calculations which could result in a cost saving to the UK as a whole.
113. The extent to which crime will be reduced by Option 2 cannot be forecast, so Table E.4 reports the reduction that would be required in order to offset the costs of the policy. This is reported for the 'best estimate' scenario (as in Table E.1) and the low and high scenarios. The central estimate assumes that crime would have to reduce by 15% in order for the policy to breakeven. This increases to 45% in the worst case scenario, but is only 5% in the best case scenario.

Table E.4

Scenario	Low	Best	High
Net cost (average annual)	-£17.6	-£47.7	-£114.3
Required crime reduction	8.0%	21.7%	52.0%

ONE-IN-TWO-OUT (OITO)

114. This policy falls within the scope of one-in-two-out with the measures considered an IN.

Costs (INs)

115. The additional burden of paying a licence fee and complying with the new requirements for scrap metal dealers represents a regulatory IN. This is quantified as £37.2million per year, with a 10 year present value of £320 million.
116. This is a significant increase from the quantified cost to business in the final stage impact assessment for this Act. Changes to the bill as it progressed through Parliament have resulted in additional record keeping and identity verification requirements for scrap metal dealers. This means additional time is required to complete each transaction. These measures help to ensure that unscrupulous dealers no longer use the scrap metal market as a route to trade stolen metal. Scrap metal dealers have been consulted throughout the process with a number of dealers incorporating elements of the Act as good practice before it came into force. Regulation was needed to ensure that all dealers met these standards.

Benefits (OUTs)

117. The integration of the motor salvage licences into the Scrap Metal Dealers Act 2013 reduces the duplication of licences for some scrap metal dealers. The fees saved as a result of this are estimated to be £0.06 million per year, with a 10 year present value of £0.5 million. This is considered an OUT.
118. Crime reduction benefits fall mainly to business but are considered indirect effects and therefore out of scope for OITO. Paragraphs 94 - 103 explain that potential benefits could be as high as £100 million for businesses.

NET

119. The net impact on business is estimated to be a cost of £37.1million per year, with a 10 year present value of £320million. The EANCB (2009 prices, 2010 base year) is **£30.4 million**.

F. Risks

OPTION 1 – DO NOTHING

Table F.1

Risk	Mitigation
Metal Theft continues to escalate.	Steps proposed in option 2 re-regulate the scrap metal industry which will in turn tackle the substantial market for stolen metal. Enforcement action by a number of agencies should continue, or could be enhanced, should it be considered a local problem. The success of current measures has been partly put down to the scrap metal industry taking steps themselves to pre-empt legislative change. Should the risk of legislative change not materialise, scrap metal dealers may decide to continue their previous illegitimate behaviour.

OPTION 2 – ENACT THE SMDA 2013

Table F.2

Risk	Mitigation
Local Authorities do not prioritise enforcing this issue.	<ul style="list-style-type: none">• Funding through a licence fee will equip local authorities with the additional resources they need to effectively administer and ensure compliance with this regime.• More effective deterrents for offences under the new regime including unlimited fines and the power to revoke licences should encourage local authority involvement.• Significant awareness raising was undertaken to promote action in this area amongst agencies.
Criminals by-pass legitimate scrap metal dealers, increasing the number of illegal sites/exports.	<ul style="list-style-type: none">• The Environment Agency has formed a new enforcement unit to tackle scrap metal dealers who do not have a permit and so are therefore acting illegally.• Border Force, SOCA, HMRC and Police are undertaking a greater focus on the ports to identify the export market for stolen metals. This includes better profiling of containers that are known to be exporting stolen metal.

120. Licence fees differ between local authorities, which may have a potential impact on competition. It is not anticipated that this would cause a problem. To avoid this problem a standard fee could be set, but this could mean that some local authorities make a profit and others receive a short fall against their activity. Allowing local authorities to set their own fee is not without precedent - local authorities also have discretion to set the fee locally to cover the cost of registering to be a motor salvage operator under the Vehicles (Crime) Act 2001.

G. SENSITIVITY ANALYSIS

121. There is an element of uncertainty within the estimates presented in Section E. The sensitivity of the costs and benefits of Option 2 to changes in these assumptions are presented below.

122. *Business compliance, and the additional time to businesses and customers* accounts for over 80% of the total costs of the policy. This major cost driver relies on a number of assumptions:

- an estimated number of dealers;
- an estimated daily volume of transactions, assumed to be 65 for dealers and 15 for itinerant collectors;
- an assumed increase in time per transaction to dealers, mobile collectors and customers so that businesses comply with more stringent record keeping requirements and so that businesses verify seller's name and address. The additional time imposed by more detailed record keeping has a lower bound of 30 seconds and an upper bound 2 minutes. The additional time for verification of a seller's name and address ranges from 1 to 5 minutes;
- an estimated number of working days, 253 an estimated hourly wage, assumed to be £15;
- an estimated proportion of 'new' customers, which has a central estimate of 19 per cent; and
- an estimated proportion existing compliance, assumed to be 21 per cent for sites.

123. These estimates are tested in the sensitivity analysis below but it should be noted that the estimated compliance cost to business is subject to considerable uncertainty. Fairly minor adjustments to these assumptions, when combined, could lead to the overall cost estimate, and the resulting net present value of the policy being considerably lower or higher.

124. *The cost of a licence – £350 for a dealer and £250 for a collector* – is based on data provided by the Local Government Authority. There is variation in the cost of a licence as local authorities are allowed to set their own licence fees.

125. *The number of additional offences – 7* – is based on a 10 per cent increase on the number of convictions obtained in 2012. The number of convictions obtained in 2012 was a significant increase on the 2010 number, due to the additional enforcement provided by Operation Tornado. Therefore, it is assumed that there will only be a small number of additional offences under the SMDA 2013. This assumption is tested below as there could be additional costs for HMCTS and the CPS if this small increase is not accurate. The lower bound scenario assumes zero additional offences, whilst the upper bound assumes that the number of offences doubles and so there are 68 additional offences. This has a negligible impact on the net effect of the policy

126. *The number of appeals - 95 a year - is based on a best estimate of the proportion of licences likely to be refused (2.5%) and a proportion of unsuccessful applications that are likely to be appealed (50%).* Under the SMDA 64 there was no possibility to either refuse or revoke a licence and the Environment Agency did not keep a central record about the number of environmental permit/licence applications they have refused. The only information that was kept was in relation to the number of permits/licences issued. Therefore, it is difficult to say with certainty what the likely number of appeals would be. To account for uncertainty the impact assessment also models an upper band scenario where five per cent of licence applications are refused and 100 per cent of these applications are appealed. This also has a negligible impact on the net effect of the policy as the overall cost of appeals increases from approximately £12,000 a year to £23,000 a year.

127. *The estimated annual cost of metal theft – £220m* – is likely to be an underestimate. It is possible that the true cost of metal theft was significantly greater. For example, the Association of Chief Police Officers placed an annual cost of metal theft to the UK of £777m in 2010. If the cost of metal theft were closer to the ACPO estimate then crime would have to reduce by significantly less for the policy to break even⁶⁰.

Sensitivity Analysis

128. As a number of assumptions were made in the calculation of the costs and benefits of Option 2, sensitivity analysis was conducted to demonstrate the scale and direction of potential error in these assumptions. A lower and upper bound were constructed using various assumptions that are set out in Table G.1.

⁶⁰ If the total cost of metal theft were £777million, then to breakeven crime would have to reduce by approximately 6% as opposed to close to 20%.

Table G.1: Assumptions used in sensitivity analysis

	<i>Central estimate</i>	<i>Best Case</i>	<i>Worst Case</i>
Number of sites	2914	2622	3205
Number of collectors	4548	4093	5003
Site licence fee	£350	£200	£500
Collectors licence fee	£250	£100	£400
Unsuccessful licence application rate	2.5%	0.0%	5.0%
Proportion of non-compliant sites	79%	58%	100%
Proportion of business with new customers	17%	15%	19%
Additional time spent applying (mins)	15	10	20
Additional time for record keeping (mins)	1	0.5	2
Additional time for verifying ID (mins)	3	1	5
Additional convictions under SMDA	7	0	68

129. Table G.1 provides a list of the assumptions that vary between the lower bound scenario and the upper bound scenario. This is not an exhaustive list of the assumptions used in the modelling, but just those that vary

130. Table G.2 demonstrates the costs and benefits associated with each estimated scenario.

Table G.2: Sensitivity analysis results, annual average figures (taking into account transition costs and averaged over the full ten year appraisal period)

	<i>Central Estimate</i>	<i>Best Case</i>	<i>Worst Case</i>
COSTS (£m)			
- Business costs	£37.2	£14.3	£87.7
- Individual costs	£10.4	£3.3	£26.3
- LA costs	£1.0	£0.4	£1.7
- EA costs	£0.1	£0.1	£0.1
- CJS costs	£0.0	£0.0	£0.0
BENEFITS (£m)			
- Business benefits	£0.1	£0.1	£0.1
- LA benefits	£0.9	£0.4	£1.4
- CJS benefits	£0.0	£0.0	£0.0
NET BENEFIT (£m)⁶¹			
- Business	-£37.1	-£14.2	-£87.7
- Individuals	-£10.4	-£3.3	-£26.3
- LA	-£0.1	-£0.0	-£0.3
- EA	-£0.1	-£0.1	-£0.1
- CJS	£0.0	£0.0	£0.0

⁶¹ Negative figures indicate net costs rather than net benefits, that is the costs are greater than the benefits

H. Enforcement

131. Local authorities were the regulator of the SMDA 1964 and were responsible for administering and ensuring compliance with the Act. This continues with the SMDA 2013 whereby local authorities retain their regulatory role. In addition to local authorities, police forces routinely take action against scrap metal dealers who are acting illegally, both for regulatory offences but also for other offences such as theft or handling where appropriate. In addition, further action is taken by the Environment Agency, HM Revenue & Customs, UK Border Force and the Serious and Organised Crime Agency across England and Wales. Such activities include individual and multi-agency operations and national days of action.

Local authorities

132. Local authorities are required to administer the licensing regime in the SMDA 2013 and ensure compliance with it, licensing only “suitable” scrap metal dealers within their geographic boundary. Local authority involvement in regulating the SMDA 1964 had been mixed, principally as a result that the SMDA 1964 had no fee raising power to cover registrations so local authority activity was financed through other revenue streams. This is addressed in the SMDA 2013 with the inclusion of a fee raising power whereby a licence fee can be charged, at cost recovery, for all administration and compliance costs. This provides local authorities with the resources they need to effectively regulate this regime.

133. We have seen local authority activity increase since 2011 as a result of heightened awareness of metal theft and that local authorities were increasingly becoming victims of metal theft.

134. When developing this Act, we considered whether the regulatory function should continue to sit with local authorities or whether it was best being transferred to another body, for example, police forces or the Environment Agency/Natural Resources Body for Wales. Following advice from the Local Government Association, we believed that local authorities should retain the regulatory function because:

- funding through the licence fee will provide the resources they need to effectively regulate this regime;
- those local authorities who have effectively regulated the SMDA 1964 have built up experience of their local scrap metal dealers and this sector;
- that all local authorities have built up considerable experience in local licensing, for example, under the Licensing Act 2003 with the administration and enforcement of the alcohol licensing regime; and
- that they should have existing systems, structures and infrastructure in place, both with regard scrap metal dealers but also licensing regimes more generally, to utilise.

135. The Home Office has worked with the Local Government Association to develop and issue guidance for local authorities about the new regime to best equip them to deliver their regulatory responsibilities. In addition, separate guidance outlined what the licence fee can and cannot cover, as well as a model regime upon which they should base their response.

The Police Response and the National Metal Theft Taskforce

136. The National Infrastructure Plan (published in November 2011) provided £5m of funding available until March 2013 to create the National Metal Theft Taskforce.

137. The Government made this funding available to support and enhance existing law enforcement activity to bridge the gap between new legislation. Although the taskforce is referred to as one, being owned and coordinated by the British Transport Police, it is actually made up of various regional hubs of officers and partners, aligned to the eleven regions of the UK. Funding has been provided for 150 bespoke national, regional and local projects, designed by law enforcement organisations to respond to a particular need. Such activity also includes supporting multi-agency activity, seeking greater intelligence collation, more intelligence analysis, risk assessing every scrap

metal dealer and developing the response to the export market. The Taskforce had six agreed key strategic objectives:

- i) Reduce the theft of metal;
- ii) Increase the level of offenders brought to justice in relation to metal theft and non compliance with current legislation;
- iii) Disrupt organised criminal networks involved in metal theft activity;
- iv) Implement a structured pattern of scrap metal dealer visits;
- v) Improve compliance with the Scrap Metal Dealers Act 1964 and associated legislation regarding licensing and registration; and
- vi) Development of an enhanced intelligence picture of metal theft activity across the country.

138. The Taskforce has had a positive impact in each UK region, at the very least developing the intelligence and knowledge capability which in turn facilitates greater targeted and intelligence led enforcement activity. In time, our expectation is that policing metal theft and the scrap metal sector should form part of routine business for police forces, albeit assisted by the intelligence collation that the Taskforce has developed.

139. The aspiration is that the level of resource required by law enforcement organisations to tackle metal theft should decrease in this area over time once the attractiveness of metal theft offending is reduced. There may be additional “opportunity costs” at the initial stage with resources being diverted from other policing priorities. The police response is also being refined through experience; with tactical approaches being developed and shared by ACPO with over ten police forces now have dedicated law enforcement operations for metal theft.

140. Due to the success of the Taskforce, further funding was provided in 2013/14 and 2014/15, up until 30 September. This ensured that the Taskforce was in place until the end of the first year of the new licensing scheme which has provided sufficient time for the reforms to become well-established, for co-ordinated enforcement to have taken place, and for police forces to develop and implement proposals to embed tackling metal theft within their normal business.

Multi-agency intelligence

141. Considerable work is also underway to improve the multi-agency intelligence base around metal theft offending, including the victims, the offenders, the outlet for stolen materials and incidences overseas.

142. The Fusion Intelligence Unit was established for this purpose, hosted by the British Transport Police. This unit includes staff from a range of organisations, including police, public and private industry, to draw off their internal information systems to contribute to a common information picture. The unit has also developed a clearer risk assessment process for all scrap metal dealers to contribute to subsequent intelligence enforcement activity including the export of metal and disrupting organised criminality involved in metal theft.

143. This unit has been expanded to ensure the input of all affected sectors and all relevant law enforcement operations.

I. Summary and Recommendations

144. The table below outlines the costs and benefits of the proposed changes (best estimate).

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	£419m (10 year PV)	£8m (10 year PV)

	<p>Costs to business, local authorities, Environment Agency, HM Courts and Tribunal Service, Crown Prosecution Service.</p>	<p>Benefits to business, local authorities from fee income, the CJS in the form of fine income, and HM Treasury</p> <p>Crime reduction benefits to businesses and individuals could not be quantified.</p>
<p>Source: HO analysis</p>		

145. Option 2 is the preferred option.
146. Note that the NPV is negative due to the high costs associated with business compliance with the new regulations. It should be noted that much of this cost could be opportunity in nature: many businesses are likely to be able to absorb the costs without having to employ additional resources. In addition, these costs are highly sensitive to the assumptions taken (as explained in Section G) and are therefore subject to considerable uncertainty.
147. Furthermore, the benefits from reduced metal theft have not been quantified due to significant uncertainty as to the potential scale of such reductions. For these reasons it is possible that the true NPV could be positive.

J. Implementation

148. The SMDA 2013 received Royal Assent in February 2013. The Home Office was responsible for its commencement. The majority of the provisions within the Act commenced on 1 October 2013, in line with BIS' Common Commencement Dates, and was fully implemented on 1 December. There was a transition period to allow scrap metal dealers registered under the SMDA 64 and the Vehicles (Crime) Act 2001 to obtain their licence. We worked with the scrap metal industry, including the British Metals Recycling Association, the Local Government Association and the Association of Chief Police Officers to ensure smooth implementation of these proposals.

K. Monitoring and Evaluation

149. The Act is subject to a statutory five year review clause to ensure the legislation is meeting its intended policy objectives.
150. Through the Metal Theft Working Group, we monitor the effectiveness of this Act and the ongoing impact of metal theft.
151. The effectiveness of the new regime is also be monitored by the continued review of police recorded crime statistics to identify trends in metal theft offences. In addition, the Home Office will work with major users of metal (suggested BT, Network Rail, and Energy Network Association) to monitor the offences of metal theft that they suffer from, every quarter for a period of 2 years – this information is now being supplied to BTP's Fusion Centre. Since April 2012 there has been a new data collection category for police forces as part of the Annual Data Return led by Home Office Stats. Data is collected from police forces on a monthly basis for the number of reported metal theft offences, broken down into i) infrastructure and ii) non-infrastructure. This data will contribute to providing more accurate information on the number of metal theft offences being reported. The statistics were first published in November 2013, as mentioned at paragraph 98.
152. The Home Office worked with the scrap metal sector and their trade association in relation to the creation of this regime, as well as with law enforcement organisations. The Home Office continued this dialogue throughout the implementation of this new regime to ensure its effectiveness and to identify any unintended consequences.
153. Data gathered from these various monitoring processes will form the basis of a full review of the impact of the changes to be carried out by the Home Office within five years of enactment. In order to assess the effect of these measures (in isolation from other measures introduced through the Legal Aid, Sentencing and Punishment of Offenders Act 2012), analysts hope to take advantage of random variations in, for instance, existing compliance with the requirements of the new Act and with those of Legal Aid, Sentencing and Punishment of Offenders Act 2012, and any random

variations in implementation of each set of measures. If such variations could be identified, analysts would be able to consider the use of quasi-experimental design evaluation as a means of supporting the review. The details and feasibility of such an evaluation would be dependent on the quality of the monitoring data that is collected.

L. Feedback

154. Feedback will be obtained through continued dialogue with the scrap metal industry through the British Metal Recyclers Association and through the Metal Theft Working Group from a police and industry perspective.
155. The Home Office did not undertake a formal consultation on the proposals outlined, but it did receive a significant amount of correspondence and representation from a wide range of stakeholders who all expressed support to the proposals suggested – this included from law enforcement, local and national government, the scrap metal sector, public and private sector and from the third sector.
156. Continuous feedback was received during the implementation of this policy through established communication channels and through the Metal Theft working group and sector sub-groups.

M. Specific Impact Tests

i) Statutory Equality Duties

- i.1 We do not anticipate any impacts on equalities issues as a result of these proposals.

ii) Economic Impacts

Competition Assessment

- ii.1 We do not anticipate any competition impacts as a result of these proposals.

Small and Micro Business Assessment

- ii.2 No small firms assessment was conducted, although there will be an impact. A large percentage of the industry at the bottom of the pyramid will be small and micro businesses. The evidence available shows that most of the criminality in the industry, which allows stolen metal to be laundered through the scrap metal market, enters through these small and micro businesses and many of these will be not have been registered under the previous regulatory system (SMDA 1964). As a result, for the SMDA 2013 and for the cash ban that was initially legislated for in the LASPO Act 2012, we received a waiver from the moratorium on regulating micro businesses. This waiver from the Department for Business, Innovation and Skills recognised the urgent requirement to protect the wider economy, particularly infrastructure.
- ii.3 The average cost per site is estimated to be £64,000 and to a collector is £28,000 in net present value terms over ten years. Due to data availability this is an industry average and the cost to small and micro businesses is expected to be lower. BMRA members account for 95% of the tonnage processed in the industry, which also proxies for the number of transactions completed in the industry. Therefore, the smaller firms in the industry only account for 5% of the total transactions carried out. Therefore, it is expected that small and micro businesses will carry out fewer transactions per day than the average of 65, and so the costs imposed by SMDA 2013 will be smaller.

iii) Environmental Impacts

Greenhouse gas impacts

- iii.1 We do not anticipate any greenhouse gas impacts as a result of these proposals.

Wider Environmental Issues

- iii.2 We do not anticipate any environmental impacts as a result of these proposals.

iv) Social Impacts

Health and Well-being

iv.1 We would expect the well-being of society to remain the same as a result of these proposals.

Human Rights

iv.2 These proposals are compatible with the Human Rights Act 1998.

Justice

iv.3 We would expect a small increase in offences as a result of commencing these proposals. We would also anticipate that additional fine income from the additional offences would outweigh the costs to HM Courts and Tribunals Service and the Crown Prosecution Service.

iv.4 As outlined earlier in this Impact Assessment, proposals could lead to appeals of licence refusal or revocation to the magistrates' court. Costs of these appeals are expected to be minimal, due to the small number estimated, but costs could not be estimated.

Rural Proofing

iv.5 We would not expect these proposals to have a greater impact on rural rather than urban areas.

v) Sustainability

Sustainable Development

v.1 These proposals are consistent with the principles of sustainable development.

Annex 1 - Ministry of Justice Assumptions

Assumption	Risks/Limitations
<p>CPS costs:</p> <p>Current CPS costs are based on Activity Based Costings (ABC), the primary purpose of which is resource distribution. The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated.</p> <p>Source: CPS, 2013.</p>	<ul style="list-style-type: none"> • The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated⁶². • Advocacy costs for the CC are excluded.
<p>HMCTS costs:</p> <p>(a) Magistrates Courts Costs</p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrate's court costs are £1,200 per sitting day in 2012/13 prices. A sitting day is assumed to be 5 hours.</p> <p>Source: The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2012-13. HMCTS timings data from the Activity Based Costing model, the Timeliness Analysis Report data set and the costing process.</p>	<p><u>Timings data for offence categories:</u></p> <ul style="list-style-type: none"> • Based on the time that a legal advisor is present in court. This is used as a proxy for court time. There may be a difference in average hearing times as there is no timing available e.g. when a DJ (MC) sits. • Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information is available on admin time, however we have excluded it for simplicity. • The timings are collection of data from February 2009. Any difference in these timings could influence costings. • The data also excludes any adjournments (although the ABC model does), and is based on a case going through either one guilty plea trial (no trial) or one effective trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costs could be underestimates. • Guilty plea proportions at the Initial hearing from Q2 in 2012 are used based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing). <p><u>HMCTS average costs per sitting day:</u></p> <ul style="list-style-type: none"> • HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.

⁶² For further information about how CPS ABC costs are calculated please see the following CPS guidance (CPS, 2012): http://www.cps.gov.uk/publications/finance/abc_guide.pdf