

EXPLANATORY MEMORANDUM TO
THE SCRAP METAL DEALERS ACT 2013 (PRESCRIBED DOCUMENTS
AND INFORMATION FOR VERIFICATION OF NAME AND ADDRESS)
REGULATIONS 2013

2013 No. 2276

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 Under the new Scrap Metal Dealers Act 2013, a scrap metal dealer must not receive scrap metal from a person without verifying their full name and address by using documents, data or other information from a reliable and independent source. These regulations prescribe what documents or information is sufficient to do this.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 These regulations are being made to implement an obligation in the new Scrap Metal Dealers Act 2013. Section 11 (3) (a) (b) of the Scrap Metal Dealers Act 2013 gives the Secretary of State for the Home Department the power to prescribe the regulations which set out the documents, data or other information which are, or are not, sufficient for the purpose of verifying the full name and address of the supplier. This is the first use of the enabling power in section 11 (3) of the Act. This instrument is linked to The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 which prescribes what constitutes a relevant offence or relevant enforcement action for the purposes of a local authority's decision on suitability. The regulations will be laid in Parliament in September 2013.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England and Wales.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 The Government believes that the regulation of the scrap metal industry, the Scrap Metal Dealers Act 1964, is no longer effective and does little to raise trading standards of the industry or prevent the trade of stolen metal which is estimated to cost the UK at least £220m per annum (Deloitte 2011). Parts of the scrap metal industry are recognised by the Association of Chief Police Officers as being the

principal market for stolen metal. Reform of the sector is therefore considered vital and so the Government intends to commence the Scrap Metal Dealers Act 2013 on 1 October 2013.

7.2 The overall policy aim of the Scrap Metal Dealers Act 2013 is to provide a robust, modernised, and comprehensive regulatory regime for the metal recycling sector that enables agencies to tackle unlawful behaviour and metal theft. Local authorities will consider whether an applicant is 'suitable' to hold a scrap metal dealer's licence and only those issued with a licence are permitted to operate.

7.3 The Act will place a number of requirements on the dealer which must be met, including verifying the identity of the seller. The objective of this section of the Act is to ensure that dealers trade with legitimate, known suppliers, and that transactions are recorded and traceable. These regulations fulfil this objective by setting out which documents will be sufficient for the purposes of verification of name and address, in that they are sufficiently reliable.

7.4 The Government needs to use regulations to achieve this objective because section 11 (3) requires that regulations are used to prescribe the documents or information; thus it would not be possible to achieve this through guidance or a code of practice.

7.5 There has been significant media interest in metal theft, particularly in relation to thefts from war memorials and damage to church roofs. There has also been a high level of public interest; the Home Office has received significant volumes of correspondence since 2010 on the subject of metal theft, all supporting the need for change. Parliament has also debated the response to metal theft and ruled in a motion in February 2012 after a Backbench Committee Debate that legislative action was required to revise the Scrap Metal Dealers Act 1964.

7.6 There is no requirement for consolidation because these regulations are not amending another statutory instrument.

8. Consultation outcome

8.1 The Scrap Metal Dealers Act 2013 was introduced by Richard Ottaway MP with significant input by the Home Office. The Home Office consulted the Home Affairs, Economic Affairs and Reducing Regulation Committees on the approach to tackle metal theft and the legislative response. The Scrap Metal Dealers Act 2013 was agreed by the Welsh Government Assembly as the geographic extent of this Act covers both England and Wales. Separate discussions have been held with the Scottish Government and Northern Ireland Assembly, as well as with overseas representatives including the Royal Canadian Mounted Police. This consultation took place over the period of one year.

8.2 There was widespread agreement between Government, the scrap metal industry, police and the public that the system regulating the scrap metal sector needed to change and therefore no formal consultation took place as it was considered to be of minimal benefit. With the bill being a Private Members Bill it was, by its very nature, deemed to be uncontroversial. However, the Home Office has 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 such as the Church of England, English Heritage, Network Rail and energy providers.

8.3 It is widely accepted that the Scrap Metal Dealers Act 1964 has severe limitations and needs to be revised. This view is shared by, amongst others, the scrap metal industry. The British Metals Recycling Association, the trade association for the industry, said in a position paper 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)*'. In addition, core components of the Act are already considered good practice by the industry and are included within the British Metal Recycling Association's voluntary code of practice which is adopted by their members. Seeking additional identification from the seller is part of this code of practice and is now commonly used as business as usual by the majority of scrap metal dealers.

8.4 The Home Office has received similar support from other scrap metal firms and from those with an informed opinion of the matter. SITA UK, a significant business within the scrap metal industry, believes that the cash in hand nature and lax record keeping that dominates this industry is facilitating tax avoidance/evasion; they publically believe that £1 billion of transactions is avoiding 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 Legal Aid, Sentencing and Punishment of Offenders Act and subsequently the Scrap Metal Dealers Act. Through the Act we seek to tighten up the record keeping requirements further, including requiring identification.

9. Guidance

9.1 The Home Office will issue guidance to assist scrap metal dealers in understanding their requirements regarding the verification of the identity of the supplier of scrap metal. The Local Government Association, police and scrap metal industry trade associations will also be issuing guidance to ensure that interested parties are informed of the new Act and their requirements under it.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that businesses in the scrap metal industry will need to comply with the revised regulation of the scrap metal sector. Any reductions in metal theft would reduce the social and economic costs estimated at around £220m per annum.

10.2 The impact on the public sector is that local authorities will have an enhanced role in administering the new licensing regime (they currently have responsibility for regulating scrap metal dealers via a registration scheme under the Scrap Metal Dealers Act 1964) by ensuring compliance with it, taking enforcement action against scrap metal dealers who break the law and ensuring that appropriate information is shared with other law enforcement organisations. The additional burden of administering the regime will be funded through a licence fee paid by scrap metal dealers. The Scrap Metal Dealers Act will impact police forces as they will be responsible for responding to the criminal offences under the new regime. The Environment Agency will be impacted as they must host and maintain a publicly accessible register of licensed scrap metal dealers. There may be an increase in the number of offences that enter the justice system.

10.3 The Impact Assessment for the Scrap Metal Dealers Act 2013 has not yet been finalised and we will publish once this process is complete.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The Home Office received a waiver from the moratorium on regulating micro businesses for the measures contained in the Scrap Metal Dealers Act (as well as for measures under the Legal Aid, Sentencing and Punishment of Offenders Bill 2012). The Department for Business, Innovation and Skills recognised the urgent requirement to protect the wider economy, particularly infrastructure, and that metal dealers, the vast majority of which are micro businesses, have an important role in combating and stopping metal theft. If small businesses were exempt from the requirement to verify the identity of the supplier and to record details of transactions this would have undermined the over-arching purpose of the legislation which is to eliminate the culture of anonymous, untraceable transactions in the scrap metal industry which has allowed metal theft to occur.

11.3 We have used the recycling trade press to bring the proposed changes to the attention of small businesses and responded to a large number of letters from small dealers setting out and explaining the reasons for changes. A more robust licensing system will ensure that legitimate small businesses will be able to compete on a level playing field as illegal dealers are shut down.

12. Monitoring & review

12.1 The success criteria for this instrument will be improved trading standards within the scrap metal industry and a reduction in metal theft offences.

12.2 This instrument will be reviewed when necessary. For example, if current verification documents become obsolete.

13. Contact

13.1 Breesha Lowe at the Home Office - Tel: 020 7035 8471 or email: breesha.lowe3@homeoffice.gsi.gov.uk - can answer any queries regarding the instrument.