

## **Relevant Offences**

The Government requires that local authorities make sure that they only issue scrap metal dealers licences to those considered to be 'suitable persons'. The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 provides a list of the offences which local authorities are obliged to take into account when considering if an applicant is a suitable person. The local authority will consider convictions for offences and relevant enforcement action.

The Schedule of offences is:

### **PART 1 Primary Legislation**

- (a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989(1)
- (b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979(2), where the specific offence concerned relates to scrap metal
- (c) An offence under section 110 of the Environment Act 1995(3)
- (d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990(4)
- (e) An offence under section 9 of the Food and Environment Protection Act 1985(5)
- (f) An offence under section 1 of the Fraud Act 2006(6), where the specific offence concerned relates to scrap metal, or is an environment-related offence
- (g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(7)
- (h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002(8)
- (i) Any offence under the Scrap Metal Dealers Act 1964(9)
- (j) Any offence under the Scrap Metal Dealers Act 2013
- (k) An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968(10), where the specific offence concerned relates to scrap metal, or is an environment-related offence
- (l) Any offence under Part 1 of the Vehicles (Crime) Act 2001(11)
- (m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991(12).

### **PART 2 Secondary Legislation**

- (a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007(13)
- (b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010(14)
- (c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005(15)
- (d) Any offence under the Hazardous Waste (Wales) Regulations 2005(16)
- (e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002(17)
- (f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000(18)

- (g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007(19)
- (h) Any offence under the Transfrontier Shipment of Waste Regulations 1994(20)
- (i) Any offence under the Transfrontier Shipment of Waste Regulations 2007(21)
- (j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006(22)
- (k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011(23).

Relevant offences under this regulation are defined as:

- Attempting or conspiring to commit any offence falling within the schedule.
- Inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the schedule, and
- An offence under part 2 of the Serious Crime Act 2007 (encouraging and assisting crime) committed in relation to any offence falling within the schedule.

Relevant enforcement action is defined as:

- The person has been charged with an offence specified in the schedule and criminal proceedings in respect of that offence have not yet been concluded or
- An environmental permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

If you have a relevant offence which is not spent as defined by the Rehabilitation of Offenders Act 1974, or you are subject to relevant enforcement action, it does not necessarily mean that you cannot hold a scrap metal dealers licence but it is likely that you will need to attend a Licensing Sub-Committee panel hearing in order that you can explain more about the circumstances around the conviction or enforcement action. The panel will then make a decision about whether or not they think you will be a suitable person to hold a licence.

The Scrap Metal Dealers Act 2013 allows the Sub-Committee to add one or both of the following conditions if you have been convicted of a relevant offence:

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

If you are refused a licence at this hearing, you can appeal the decision at the magistrate's court.