

Metal Theft (Prevention) Bill

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Introduce a licensing scheme for scrap metal dealers; to enable magistrates' courts to add restrictions to licences to deal in scrap metal; to require that financial transactions in trade in scrap metals be restricted to cashless payments; to give police officers powers to search properties owned by scrap metal dealerships; to provide that scrap metal proven to have been obtained through theft may be classified as criminal assets; to introduce criminal charges for theft of scrap metal which take into account aspects of the crime other than the value of the scrap metal stolen; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Particulars of registration of scrap metal dealers

- (1) In the Metal Dealers Act 1964 ("the 1964 Act") section 1 (Registration of scrap metal dealers) is amended as follows.
- (2) In subsection (3) (application for registration)—
 - (a) after "the local authority shall" insert " , having informed the Chief Officers of any relevant police authority of the application,"; 5
 - (b) at end insert " , unless any of the conditions in subsection (3A) apply."
- (3) After subsection (3), insert—

"(3A) The conditions referred to in subsection (3) are—

 - (a) the applicant has been convicted of any offence under this Act; 10
or
 - (b) the applicant's licence is currently subject to conditions; or
 - (c) a Chief Officer of any relevant police authority is of the opinion that the applicant is not a fit and proper person to be registered as a scrap metal dealer. 15

(3B) The condition in subsection (3A)(a) shall not apply if—

 - (a) a court has already considered whether to make a disqualification order under section 4 of this Act in respect of

- the same conviction or convictions, and has decided not to do so, or the relevant disqualification period has expired;
- (b) the conviction or convictions in question are spent for the purposes of the Rehabilitation of Offenders Act 1974.
- (3C) If any of the conditions in subsection (3A) apply, the application shall be listed for hearing at a local magistrates' court, and both the applicant and the Chief Officer of any relevant police authority be so notified by the local authority as soon as practicable and in any event at least 3 days before the date of the hearing. 5
- (3D) If the application has been made during the currency of a disqualification order made under section 4 of this Act, the clerk of the magistrates' court shall refuse to list the matter for hearing and shall notify the applicant in writing to that effect. 10
- (3E) In any case where a magistrates' court hears an application under section 3 (Special provisions as to records in certain cases) or section 6A (Closure orders), it shall take account of any representations made by the parties and by the relevant Chief Officer or officers, and may – 15
- (a) refuse the application; or
- (b) grant it with or without one or more conditions of registration as are specified in any regulations made by the Secretary of State under this section; 20
- and may make an order in relation to the costs of the hearing.
- (3F) Where such an application is granted following such a hearing, or following an appeal under subsection (3G), the appropriate particulars shall be deemed to have been entered on the register on the day it was granted. 25
- (3G) In respect of any order made by a magistrates' court under subsection (3E) –
- (a) there shall be a right of appeal by either party at any time within 7 days of that order to a Crown Court judge sitting alone; and 30
- (b) the Crown Court judge shall have the power to make only such order or orders as the magistrates were empowered to make at the hearing under appeal, save that he may also make an order in relation to costs of the appeal hearing.
- (3H) In relation to applications and appeals brought under this section, the Secretary of State may by regulations – 35
- (a) make further provision as to their manner and procedure;
- (b) publish guidance to assist the courts in their determination;
- (3I) Where an application has been made under subsection (6A), any refusal shall not take effect until – 40
- (a) the expiry of 12 months since the applicant's name was last entered or renewed on the register, or
- (b) 21 days following the date of notification of the refusal of the application, or
- (c) the date of the outcome of any appeal against the refusal, 45
- whichever of these three is the latest.

- (3J) Where an application is successful, the local authority shall notify the applicant in writing and such notification shall include the date upon which the applicant's particulars were entered upon the register."
- (4) In subsection (4), at end insert –
 “(f) such proof of the particulars set out at subsections (4)(a), (b) and (c) as shall be set out in regulations made by the Secretary of State under this section.” 5
- (5) Subsection (6) is amended as follows –
 (a) in paragraph (a), for the words from “three years beginning” to end substitute “twelve months beginning with the said day, unless the dealer applies to the authority no later than 42 days before the end of that period for the registration to be continued for a further period of twelve months, and”; 10
 (b) in paragraph (b), for the words “three years” substitute “twelve months”. 15
- (6) Subsection (7) is amended as follows –
 (a) after “subsection (1) of this section”, insert “, or who fails to comply with the requirements of subsection (4) of this section as specified in paragraph (f) thereof,”;
 (b) for “level 3 on the standard scale” substitute “£20,000 and a term of imprisonment not exceeding six months or both”. 20
- (7) In subsection (8), for “level 1” substitute “level 5”.
- (8) After subsection (9) insert –
 “(9A) The Secretary of State shall make regulations under this section in order to – 25
 (a) particularise further the duty set out in subsection (9);
 (b) *provide for the appointment of at least one local authority inspector per local authority area (the “local authority inspectorate”), authorised in writing to carry out inspections of scrap metal stores on their behalf;*
 (c) provide for at least two periodic inspections per annum to be carried out at each scrap metal store registered in any local authority area; 30
 (d) define protocols under which the local authority inspectorate for each area shall cooperate and communicate with the relevant police authority and the British Transport Police where appropriate in order to prevent crime.” 35
- (9) Subsection (10) is amended as follows –
 (a) after “subsection (3)” insert “subsection (3A), subsection (3J), subsection (4)(f),”;
 (b) for “and subsection (8)” substitute “, subsection (8), subsection (9) and subsection (9A)”. 40
- (10) After subsection (10) insert –
 “(11) In relation to an application for registration under subsection (3) or for continued registration under subsection (6)(a), the Secretary of State may by regulations prescribe the form of such applications. 45
 (12) The Secretary of State may make regulations under this section which –

- (a) require applications under subsection (3) and/or subsection (6)(a) to be accompanied by a fee;
- (b) prescribe the amount of the fee; and
- (c) prescribe the method by which the fee is to be calculated.
- (13) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument; and any instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.” 5
- 2 Method of payment in scrap metal transactions**
- After section 1 of the 1964 Act, insert— 10
- “1A Method of payment in scrap metal transactions**
- (1) It shall be an offence to make payment in cash for any part of a scrap metal transaction punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (2) A full record of all non-cash payments in relation to scrap metal transactions must be kept by a scrap metal dealer for a minimum of four years. 15
- (3) The Secretary of State may make regulations about the form in which records of non-cash payments must be kept and the inspection of such records by local authorities, police authorities and others. 20
- (4) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument; and any instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 3 Records of dealings** 25
- (1) Section 2 of the 1964 Act (Records of dealings) is amended as follows.
- (2) In subsection (2)(d), after “receipt of the scrap metal” insert “and the method of payment”.
- (3) In subsection (5), for the words from “and shall be retained” to end substitute “, the form and dimensions of which may be prescribed by regulations and within 14 days of the date of the final entry he shall surrender that book to the local authority which shall thereafter retain it for a period of not less than four years.”. 30
- (4) After subsection (5), insert—
- “(5A) Any bound book which is retained by the local authority under subsection (5) shall be made available upon request for inspection by a police constable.” 35
- (5) In subsection (6), after “any person” insert “other than a local authority”.
- (6) After subsection (6), insert—
- “(6A) The Secretary of State may, by statutory instrument, make regulations under this section which— 40
- (a) impose additional requirements upon dealers in respect of—

- (i) verifying the identity of persons from whom scrap metal is received;
- (ii) verifying the origin or provenance of the scrap metal received, including additional requirements in respect of recording the description and weight of the scrap metal; 5
- (iii) storing the scrap metal for a set minimum period prior to processing;
- (iv) describing, weighing and storing non-ferrous metals;
- (b) prescribe the form in which the details set out in paragraph (a) should be recorded, and the periods of time for which such records must be kept; 10
- and any instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 4 Special provisions as to records in certain cases** 15
- (1) Section 3 (Special provisions as to records in certain cases) of the 1964 Act is amended as follows.
- (2) After paragraph (1)(a) insert—
- “(aa) that, on the receipt by him of any scrap metal obtained in the course of a visit to a general waste storage site (including any place which is used for the storage or sorting of general waste), he shall obtain from the person for the time being in charge of the site a receipt showing the weight of the scrap metal concerned and, if it is sold, the aggregate price at which it is sold; and” 20 25
- (3) In subsection (4), for “level 3” substitute “level 5”.
- 5 Powers of courts**
- For section 4 (Power for court to impose additional requirements on convicted dealers) substitute the following—
- “4 Powers of courts on registration, conviction and appeal** 30
- (1) Where a person is convicted of an offence under section 1(7), section 2(6), section 3(4), section 4(3)(a) and (5) or section 6(4A), (4B) and (5) of this Act, or is convicted of any offence which, in the opinion of the court convicting him, is an offence involving dishonesty, the court in which he is sentenced may, in addition to any sentence passed, either— 35
- (a) impose one or more of the conditions of registration as are specified in any regulations made by the Secretary of State under section 1(3E)(b) of this Act; or
- (b) order that the person shall be disqualified as a scrap metal dealer by removal from the register of scrap metal dealers in every local authority area where he is so registered, and that all scrap metal stored at every scrap metal store registered under his name shall be confiscated. 40
- (2) The powers set out in subsection (1) are not exclusive and do not limit the powers of any court to make orders whether at common law or 45

under statute such as committal of an offender to the Crown Court under section 70 of the Proceeds of Crime Act 2002.

- (3) Where a person has been disqualified by virtue of an order under subsection (1)(b), it shall be an offence—
- (a) for any person to engage or continue to engage that person in connection with the receipt, processing or dispatch of scrap metal at a scrap metal store; but it shall be a defence for the defendant to show that he did not know, and could not reasonably have known, that the person had been or was disqualified; 5 10
- (b) for a disqualified person to apply for a position in connection with the receipt, processing or dispatch of scrap metal at a scrap metal store, but it shall be a defence for the defendant to show that he did not know, and could not reasonably have known, that the employment would entail such activities; 15
- and either offence shall be punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (4) Where a person has been charged with any offence under section 1(7), section 2(6), section 3(4), section 4(3)(a) and (5), section 5(1) or section 6(4A), (4B) and (5) of this Act, he shall be obliged to produce to the court at the earliest practicable opportunity proof of registration for any and all local authority areas in which he is registered as a scrap metal dealer. 20
- (5) Any person who fails to comply with the requirements of subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 25
- (6) If any requirement of an order under subsection (1)(a) of this section is contravened, the person to whom the order relates shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) An order under subsection 1(b) of this section shall be for a period not less than one year and not more than ten years.” 30

6 Other offences relating to scrap metal

- (1) Section 5 (Other offences relating to scrap metal) of the 1964 Act is amended as follows.
- (2) In subsection (1)— 35
- (a) for all references to “sixteen” substitute “eighteen”; and
- (b) for “level 1” substitute “level 3”.
- (3) After subsection (2) insert—
- “(3) A person found guilty of the theft of scrap metal is punishable on indictment by an unlimited fine or a term of imprisonment not exceeding five years, or both. 40
- (4) In determining the sentence under subsection (3), the court may take into account any injury, damage or loss caused by the theft of the scrap metal including, but not limited to, death, personal injury, property damage and economic loss.” 45

7 Rights of entry and inspection

- (1) Section 6 (Rights of entry and inspection) of the 1964 Act is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a), at end insert “, or any place which he reasonably believes is so occupied irrespective of whether or not it is entered on the register”;
 - (b) in paragraph (b), after “by virtue of this Act” insert “or regulations made under this Act”.
- (3) In subsection (2), after “authority in that behalf” insert “reasonably believes”. 10
- (4) After subsection (4) insert –
- “(4A) Any person who fails to produce any book, record or other document which a person has a right to inspect under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. 15
- (4B) Any person who assaults an officer in the exercise of any right of entry or inspection conferred by this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.”
- (5) In subsection (5) –
- (a) for “obstructs” substitute “wilfully obstructs an officer in”; 20
 - (b) for “level 1” substitute “level 5”.

8 Closure orders

- (1) After section 6 of the 1964 Act, insert the following –
- “6A Closure orders**
- (1) A magistrate may grant, on application by a senior police officer, a closure order or, where such an order has already been granted, an application to extend a closure order in relation to a place, subject to the provisions of this section. 25
- (2) A senior police officer may make such an application if either of the following apply – 30
- (a) Where a scrap metal store is registered, the senior officer –
 - (i) reasonably believes that the trader is encouraging, supporting or facilitating the trade in stolen metal whether knowingly or not and in his view such closure is necessary for the prevention of theft or handling of stolen goods or for the further investigation of those offences; or 35
 - (ii) reasonably believes that the scrap metal dealer who is registered against that store is failing to comply with any condition of his license imposed under section 1(3E)(b) or section 4(1)(a) of this Act. 40
 - (b) Where a scrap metal store is not registered the senior police officer has been informed by either a member of the local authority inspectorate or a police constable that, in their opinion, the place is being used as a scrap metal store. 45

- (3) The initial application for an order under subsection (1) may be made without notice to the defendant and the order will apply for a period not exceeding 48 hours beginning with the time at which the order is made, unless it is made on the ground specified under subsection (2)(b), in which case the order may be for an indefinite period. 5
- (4) Where one or more orders under subsection (1) has been granted on one of the grounds set out at subsection (2)(a) –
- (a) the magistrate shall, at the time of making that order, list a further hearing to take place, of which the defendant shall be given notice, before the expiry of that order; 10
- (b) at that hearing, the magistrate may –
- (i) decline to extend the order, with or without the imposition of such conditions as are specified in any regulations made by the Secretary of State under s1(3E)(b) of this Act, or 15
- (ii) extend the order for a further 48 hours in accordance with subsection (1).
- (5) The effect of any order made under this section shall be that, during the currency of the order, no scrap metal is to be received, processed or removed from the scrap metal store except where such receipt, processing or removal has been explicitly authorised by a police constable. 20
- (6) A person who permits, without reasonable excuse, scrap metal to be received, processed or removed during the currency of the order other than with the explicit authority of a police constable shall be guilty of an offence and liable on conviction to a fine not exceeding level 5 on the standard scale. 25
- (7) For the purposes of this section, “reasonable excuse” shall include, but not be limited to, the circumstance where neither the scrap metal dealer who is registered in relation to that scrap metal store, nor the person (if another person) who has permitted the receipt, processing or removal of the scrap metal, has been notified of the making of the order.” 30

9 Criminal liability of directors etc.

- (1) After section 7 of the 1964 Act, insert the following –
- “7A Criminal liability of directors etc.** 35
- (1) Where an offence under any provision of this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a director, manager, secretary or other similar officer of the body corporate, or 40
- (b) any person who was purporting to act in any such capacity, he (as well as the body corporate) shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where an offence under any provision of this Act is committed by a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner or a person purporting to be a partner, he (as well as the 45

partnership) shall be guilty of that offence and liable to be proceeded against and punished accordingly.”

10 Interpretation

- (1) Section 9 (Interpretation) of the 1964 Act is amended as follows.
- (2) In subsection (2) – 5
 - (a) at the end of the definition of “itinerant collector” insert “, or a person regularly engaged in collecting metal from general waste storage sites (which includes any place which is used for the storage or sorting of general waste) for the purposes of resale”;
 - (b) after the definition of “place” insert – 10

““relevant police authority” means the police authority with jurisdiction in the local authority area or other relevant police force or unit;”;
 - (c) at the end of the definition of “scrap metal” insert “, and any other metal which has been or is being stored as scrap metal at a scrap metal store”; 15
 - (d) at end, insert –

““senior police officer” means an officer of the rank of Inspector or above.”.

11 Short title, commencement and extent

- (1) This Act may be cited as the Metal Theft (Prevention) Act 2012. 20
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act shall not extend to Scotland or to Northern Ireland.

Metal Theft (Prevention) Bill

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To introduce a licensing scheme for scrap metal dealers; to enable magistrates' courts to add restrictions to licences to deal in scrap metal; to require that financial transactions in trade in scrap metals be restricted to cashless payments; to give police officers powers to search properties owned by scrap metal dealerships; to provide that scrap metal proven to have been obtained through theft may be classified as criminal assets; to introduce criminal charges for theft of scrap metal which take into account aspects of the crime other than the value of the scrap metal stolen; and for connected purposes.

*Ordered to be brought in by Graham Jones,
Margot James, Mr John Spellar, Steve Rotheram,
Mr Tom Watson, Bill Esterson, Pat Glass, Mr
Alan Campbell, Martin Caton, Chris Kelly, Kate
Green and Andrew Percy.*

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