

Status: Point in time view as at 01/10/2013. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Scrap Metal Dealers Act 2013, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **E+W**

Section 5

FURTHER PROVISION ABOUT LICENCES

Term of licence

- 1 (1) A licence expires at the end of the period of 3 years beginning with the day on which it is issued.
- (2) But if an application to renew a licence is received before the licence expires, the licence continues in effect and—
 - (a) if the application is withdrawn, the licence expires at the end of the day on which the application is withdrawn;
 - (b) if the application is refused, the licence expires when no appeal under paragraph 9 is possible in relation to the refusal or any such appeal is finally determined or withdrawn;
 - (c) if the licence is renewed, it expires at the end of the period of 3 years beginning with the day on which it is renewed or (if renewed more than once) the day on which it is last renewed.
- (3) Sub-paragraphs (1) and (2) are subject to section 4 (revocation of licence).
- (4) The Secretary of State may by order substitute different periods for the periods specified in sub-paragraphs (1) and (2)(c).

Commencement Information

II Sch. 1 para. 1 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

Applications

- 2 (1) A licence is to be issued or renewed on an application, which must be accompanied by—
 - (a) if the applicant is an individual, the full name, date of birth and usual place of residence of the applicant,
 - (b) if the applicant is a company, the name and registered number of the applicant and the address of the applicant's registered office,
 - (c) if the applicant is a partnership, the full name, date of birth and usual place of residence of each partner,
 - (d) any proposed trading name,
 - (e) the telephone number and e-mail address (if any) of the applicant,
 - (f) the address of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to do so,

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- (g) details of any relevant environmental permit or registration in relation to the applicant,
 - (h) details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years ending with the date of the application,
 - (i) details of the bank account which is proposed to be used in order to comply with section 12 (scrap metal not to be bought for cash etc), and
 - (j) details of any conviction of the applicant for a relevant offence, or any relevant enforcement action taken against the applicant.
- (2) If the application relates to a site licence, it must also be accompanied by—
- (a) the address of each site proposed to be identified in the licence (or, in the case of an application to renew, of each site identified in the licence whose renewal is sought), and
 - (b) the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
- (3) If the application relates to a site licence, the references in sub-paragraph (1)(g), (h) and (j) to the applicant are to be read as including any individual proposed to be named in the licence as a site manager.
- (4) The Secretary of State may by order amend sub-paragraph (1) or (2) to alter the requirements as to what information must accompany an application.

Commencement Information

I2 Sch. 1 para. 2 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

Variation of licence

- 3
- (1) A local authority may, on an application, vary a licence by changing it from one type to the other.
 - (2) If there is a change in any of the matters mentioned in section 2(4)(a), (c) or (d) or (6)(a), the licensee must make an application to vary the licence accordingly.
 - (3) But the power to amend the name of the licensee does not include the power to transfer the licence from one person to another.
 - (4) An application under this paragraph—
 - (a) is to be made to the authority which issued the licence, and
 - (b) must contain particulars of the changes to be made to the licence.
 - (5) A licensee who fails to comply with sub-paragraph (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (6) It is a defence for a person charged with an offence under this paragraph to prove that the person took all reasonable steps to avoid committing the offence.

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I3 Sch. 1 para. 3(1)-(4) in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

Further information

- 4 (1) The local authority may request (either when the application is made or later) that the applicant provide such further information as the authority considers relevant for the purpose of considering the application.
- (2) If an applicant fails to provide information requested under sub-paragraph (1), the authority may decline to proceed with the application.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

PROSPECTIVE

Offence of making false statement

- 5 An applicant who in an application or in response to a request under paragraph 4(1)—
- (a) makes a statement knowing it be false in a material particular, or
 - (b) recklessly makes a statement which is false in a material particular,
- is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Fee

- 6 (1) An application must be accompanied by a fee set by the authority.
- (2) In setting a fee under this paragraph, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.

Commencement Information

I5 Sch. 1 para. 6 in force at 1.9.2013 by S.I. 2013/1966, art. 2(b)

Right to make representations

- 7 (1) If a local authority proposes—
- (a) to refuse an application made under paragraph 2 or 3, or
 - (b) to revoke or vary a licence under section 4,
- the authority must give the applicant or licensee a notice which sets out what the authority proposes to do and the reasons for it.
- (2) In this paragraph and paragraph 8 the applicant or licensee is referred to as “A”.

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- (3) A notice under sub-paragraph (1) must also state that, within the period specified in the notice, A may either—
 - (a) make representations about the proposal, or
 - (b) inform the authority that A wishes to do so.
- (4) The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to A.
- (5) The authority may refuse the application, or revoke or vary the licence under section 4, if—
 - (a) within the period specified in the notice, A informs the authority that A does not wish to make representations, or
 - (b) the period specified in the notice expires and A has neither made representations nor informed the authority that A wishes to do so.
- (6) If, within the period specified in the notice, A informs the authority that A wishes to make representations, the authority—
 - (a) must allow A a further reasonable period to make representations, and
 - (b) may refuse the application, or revoke or vary the licence under section 4, if A fails to make representations within that period.
- (7) If A makes representations (either within the period specified in the notice under sub-paragraph (1) or within the further period under sub-paragraph (6)), the authority must consider the representations.
- (8) If A informs the authority that A wishes to make oral representations, the authority must give A the opportunity of appearing before, and being heard by, a person appointed by the authority.

Commencement Information

16 Sch. 1 para. 7 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u) (with art. 5(4))

Notice of decision

- 8 (1) If the authority refuses the application, or revokes or varies the licence under section 4, it must give A a notice setting out the decision and the reasons for it.
- (2) A notice under this paragraph must also state—
 - (a) that A may appeal under paragraph 9 against the decision,
 - (b) the time within which such an appeal may be brought, and
 - (c) in the case of a revocation or variation under section 4, the date on which the revocation or variation is to take effect.

Commencement Information

17 Sch. 1 para. 8 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

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Appeals

- 9 (1) An applicant may appeal to a magistrates' court against the refusal of an application made under paragraph 2 or 3.
- (2) A licensee may appeal to a magistrates' court against—
- (a) the inclusion in a licence of a condition under section 3(8), or
 - (b) the revocation or variation of a licence under section 4.
- (3) An appeal under this paragraph is to be made within the period of 21 days beginning with the day on which notice of the decision to refuse the application, to include the condition, or to revoke or vary the licence under section 4, was given.
- (4) The procedure on an appeal under this paragraph is to be by way of complaint for an order and in accordance with the Magistrates' Courts Act 1980.
- (5) For the purposes of the time limit for making an appeal under this paragraph, the making of the complaint is to be treated as the making of the appeal.
- (6) On an appeal under this paragraph, the magistrates' court may—
- (a) confirm, vary or reverse the authority's decision, and
 - (b) give such directions as it considers appropriate having regard to the provisions of this Act.
- (7) The authority must comply with any directions given by the magistrates' court under sub-paragraph (6).
- (8) But the authority need not comply with any such directions—
- (a) until the time for making an application under section 111 of the Magistrates' Courts Act 1980 (application by way of case stated) has passed, or
 - (b) if such an application is made, until the application is finally determined or withdrawn.

Commencement Information

18 Sch. 1 para. 9 in force at 1.10.2013 by S.I. 2013/1966, art. 3(u)

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