

Deadline for responses: 01/02/2014

Please respond to:

Roy Beggs MLA
Scrap Metal Dealers Bill (NI) Consultation Responses
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Alternatively you can complete this survey online at
<https://www.surveymonkey.com/s/scrapmetal>

The PSNI produced "Metal Theft in Northern Ireland: Quarterly Update to 31st March 2013" outlines a slight overall reduction in the figures of reported metal theft. However, it is startling that in the first quarter of 2013, the PSNI report that 299 reported burglary, robbery and theft offences include property items listed as metal.

It is therefore apparent that the theft of metal for sale as scrap is a lucrative business and action must be taken in order to help combat this.

It is my intention to put forward legislation which makes provision for the further regulation of scrap metal dealers in Northern Ireland. There has been significant cost to private individuals, churches, schools, public and private bodies as a result of stolen metal. At present there is no legislative requirement for those dealing in scrap metal to provide an audit trail and reduce the ease with which stolen property is being traded. The proposed Scrap Metal Dealers Bill (NI) is an attempt to rectify this. As part of the legislative process I wish to consult with interested parties. I would be very thankful if you could assist by answering the questions below.

Legislation has been passed in the Westminster Parliament which further regulates the sale of metal for scrap in England and Wales: the Scrap Metal Dealers Act 2013. Legislation has also been proposed in Scotland and in the Republic of Ireland. In the absence of new legislation, Northern Ireland would continue to suffer from metal being stolen and could become a scrap metal sanctuary for criminals who may wish to sell stolen metal for scrap; due to lack of enforcement legislation. The legislation which I propose to bring forward will bring Northern Ireland into line with England and Wales, while ensuring that a local view is taken in order to address the particular concerns of Northern Ireland.

Question 1

Do you believe that current provisions regulating the sale of scrap metal are adequate in detecting the trade of stolen metal?

Yes No Don't Know

Comments: _____

Some scrap metal dealers have subscribed to a voluntary code of conduct in relation to trading in scrap metal; not all dealers have adopted this scheme.

Question 2

Do you believe that a voluntary code of guidance on the operation of scrap metal dealers is adequate?

Yes No Don't Know

Comments: _____

Question 3

Do you agree that legislation is required in order to assist in combating the problem of metal theft?

Yes No Don't Know

Comments: _____

My Proposal for Legislation

It is my intention to bring forward a Bill which would legislate specifically the trading of scrap metal, in order to help combat the problem of scrap metal theft in Northern Ireland. I would plan to follow similar legislation which is making progress in Scotland and the Republic of Ireland and has been approved in England and Wales.

My proposals include:

- Providing traceability of the source of scrap metal by requiring specified photographic ID and proof of address to be provided to and recorded by the scrap metal merchant prior to purchase, and details to be kept on file for a period of not less than one year.

Question 4

Do you agree with this proposal?

Yes No Don't Know

Comments: _____

- Requiring registration details of vehicles delivering scrap metal to merchants, to be recorded and details kept by the scrap metal merchant for a period of no less than one year.

Question 5

Do you agree with this proposal?

Yes No Don't Know

Comments: _____

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- All transactions to be cashless (either an electronic transfer or a crossed cheque) to provide an audit trail to the person selling the scrap metal.

Question 6

Do you agree with the use of solely cashless transactions for the purchase of scrap metal?

Yes No Don't Know

Comments: _____

- A holding period during which metal would be retained and segregated and could be subject to inspection, which would increase the ability of PSNI to trace stolen metal.

Question 7

Do you agree with this proposal?

Yes No Don't Know

Question 8

If yes, how long should the holding period be?

1 day 1 week 2 weeks Other (Please Comment)

Comments: _____

Scrap metal thieves have been reported as having burnt identification information from stolen metal, or removed this information in another way. This prevents easy traceability to the source of the stolen metal, which hampers the ability to bring about criminal convictions for theft.

- It is therefore proposed that restrictions are placed on the trade of metal which has been burnt or defaced to an extent where tracking information has been removed, and could therefore arouse suspicion of deliberate concealment. These restrictions could include reporting the trade of this type of metal to the responsible authority, either the Department of the Environment or the PSNI, or applying an increased holding time.

Question 9

Do you agree with these proposals?

Yes No Don't Know Some of them (please comment)

Comments: _____

PLEASE TURN OVER

The following licensing recommendations are proposed as there is no current specific licence required in Northern Ireland for Scrap Metal Dealers. The proposal is to bring Northern Ireland into line with England and Wales.

- Requiring all scrap metal dealers to have a form of licence which would only be granted subject to suitability, which must be registered to an address in Northern Ireland. It is proposed that licences would not be granted to any unsuitable person, as defined by the Scrap Metal Dealers Act 2013, which details some of the criteria for assessing such a person as having;
 - a) been convicted of any relevant offence¹, for example trading in scrap metal for cash, or failing to maintain proper records of scrap metal transactions
 - b) been subject to any relevant enforcement action, for example for the offences outlined above.
 - c) had a previous application for the issue of a scrap metal dealers licence refused
 - d) had a scrap metal dealers licence revoked
 - e) any other waste management licence or permit refused
 - f) failed to demonstrate their ability to comply with other proposals put forward in this consultation

Question 10

Do you agree with these proposals?

Yes No Don't Know Some of them (please comment)

Comments: _____

¹ A proposed schedule of some relevant offences in Northern Ireland is included at the end of this consultation.

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The Department of the Environment is responsible for regulating waste and waste transfer. It is therefore proposed that they should also be responsible for the issue and regulation of scrap metal dealers licences.

Question 11

Do you agree with this proposal?

Yes No Don't Know

Comments: _____

It is proposed to also make the Department of the Environment, in accordance with current waste management legislation, responsible for monitoring compliance with legislation. If a breach occurs, the scrap metal dealers licence could be revoked and the matter referred to the PSNI. Both the PSNI and DoE will have the authority to carry out inspections without giving prior notice.

Question 12

Do you agree?

Yes No Don't Know

Comments: _____

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It is proposed that contravention of the proposed regulations for scrap metal dealers could result in revocation of any scrap metal dealers' licence and waste management licenses and could be subject to a range of fines depending on the severity of the offences. For example:

Question 13

Level 3 (£1,000) fine on summary conviction for offences such as minor, administrative offences, such as failing to keep accurate records or failing to appropriately identify the person selling the metal.

Do you agree with this sanction?

Yes No Don't Know

Comments: _____

Question 14

Level 5 (£5,000) fine on summary conviction for multiple minor offences, or a major offence, such as dealing in cash for scrap metal or carrying on business as a scrap metal dealer without a licence.

Do you agree with this sanction?

Yes No Don't Know

Comments: _____

Question 15

A higher level of fines for repeat offenders

Do you agree with this sanction?

Yes No Don't Know

Comments: _____

Question 16

More serious or persistent repeat offences should potentially attract a term of imprisonment

Do you agree with this sanction?

Yes No Don't Know

Comments: _____

It is proposed that the Bill will include an appeals mechanism against decisions by the Department in relation to the granting and regulation of licences, as well as enforcement.

Criminal proceedings have an established appeals process, through various levels of courts. This Bill makes no attempt to change this appeals process, therefore normal appeals procedures will apply.

Question 17

Do you agree?

Yes No Don't Know

Comments: _____

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It is proposed that the law should come into effect after a minimum period of 3 months has elapsed after the Bill has passed and a maximum period of 1 year, in order to afford Scrap Metal Dealers, as well as the Department, necessary time to prepare for the changes.

Question 18

Do you agree?

Yes No Don't Know

Comments: _____

Human Rights & Equality of Opportunity

Question 19

How do you think the proposed legislation will impact on human rights?

Positively Negatively Not at all Unsure

Comments: _____

Question 20

How do you think the proposal will impact on equality of opportunity?

Positively Negatively Not at all Unsure

Comments: _____

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It is proposed that the fees imposed for gaining a scrap metal dealers licence are to be set on a cost recovery basis for the Department.

Question 21

Do you have any comments on the likely cost/financial implications of the proposed legislation?

Question 22

Do you have any further comments on the proposed legislation?

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Contact Details for Person Completing the Consultation:

Name: _____

On Behalf of (Organisation): _____

Address: _____

Email: _____

Tel: _____

Please tick this box if you **do not wish** to have your details published with your consultation response

Proposed Schedule 1 of the Scrap Metal Dealers Bill (NI)

Outlining offences which could be considered preclusion to obtaining a scrap metal dealers licence.

- 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 - *Act applied (E.W.N.I.) (31.3.2002) by S.I. 2002/528, reg. 7(3)*
- An offence under section 9 of the Food and Environment Protection Act 1985(5) - 25 (1)
- 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. 15 (2) *Subject to subsection (3), sections 1 to 9 and 11 to 13 extend to England and Wales and Northern Ireland only.*
- Any offence under the Proceeds of Crime Act 2002. 461
- An offence under article 4, 5, 6,18, 27 or 74 of the Waste and Contaminated Land (Northern Ireland) Order 1997
- An offence under section 7 or section 27-29 of the Water (Northern Ireland) Order 1999
- An offence under the Waste Management Licensing Regulations (Northern Ireland) 2003
- An offence under section 1, 8, 9, 10, 11, 17, 21 or 24 of the Theft Act (Northern Ireland) 1969
- Any offence under the Hazardous Waste Regulations (Northern Ireland) 2005
- Section 17 of the Landfill (Northern Ireland) Regulations 2003
- Any offence under the Pollution Prevention and Control (Northern Ireland) Regulations 2003
- Any offence under the Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 2007
- Any offence under the Transfrontier Shipment of Waste Regulations 2007 in relation to the movement of scrap metal as waste across the border.
- An offence under regulation 24 of the Waste(Northern Ireland) Regulations 2011

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List of Consultees

Members of the Northern Ireland Assembly

Department of the Environment
Department of Justice
Department for Enterprise, Trade and Investment
Department for Agriculture and Rural Development
Department for Health, Social Services and Public Safety
Department of Education
Department for Employment and Learning
Department for Culture, Arts and Leisure
Department for Finance and Personnel
Department for Regional Development
Department for Social Development
Office of the First and deputy First Minister
NI Equality Commission
NI Human Rights Commission
Confederation of Business (NI)
Education and Library Boards
Federation of Small Businesses
Housing Associations
Institute of Directors
Main Churches and Faith Organisations
NIAPA
NILGA
NIRTA
Northern Ireland Housing Executive
Northern Ireland Office
Northern Ireland Electricity
Northern Ireland Water
PSNI
Translink
Twenty Six Local Councils
Scrap Metal Dealers
Ulster Farmers Union
Members of the Public

The consultation is available via

- Survey Monkey: <https://www.surveymonkey.com/s/scrapmetal>
- By electronic download via <http://www.roybeggs.co.uk/scrap-metal>
- Paper copy is available on request: Tel: 028 9336 2995