



Northern Ireland
Assembly

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Bronagh Gillen and Suzie Cave

Scrap metal – theft and regulation of the industry

1 Introduction

In response to a request from the Environment Committee, this briefing paper will provide an *indicative* framework of regulation governing scrap metal dealing across the UK and Ireland as well as provide information on the extent of the problem of metal theft.

2 Metal thefts - the extent of the problem

The following statistics provided by the Police Service Northern Ireland (PSNI), show recorded burglary, robbery and theft offences where the property stolen was metal.

Year	Recorded incidents
2007/08	210
2008/09	253
2009/10	231
2010/11	553
1 st Apr-31 st Dec 2011	732

Table 1 - Recorded metal theft incidences in Northern Ireland¹

The Association of British Insurers (ABI) has claimed that more than £1m a week is paid out by insurers to victims of metal theft across the UK.² In a written submission to the Transport Committee of the House of Commons, the Association of Chief Police Officers (ACPO) highlighted the scale and financial impact of metal theft across the UK:

There are a significant number of offences that are being reported to police forces across the UK. This is having a serious impact on the UK economy with a report by Deloitte estimating the cost to the UK economy of metal theft to be £220–260 million per year.³

In Ireland, the primary responsibility for combating metal theft and allegations of criminality lie with the Gardaí. There are no official statistics compiled on crimes involving metal theft. Particulars of an offence are not always recorded and therefore it is not possible to distinguish which offences generally involve metal theft. An Garda Síochána's National Crime Prevention Unit has been analysing crime trends and met with stakeholders particularly affected by metal theft. The Metal Theft Forum has been established to work on a metal theft and crime prevention and a reduction plan.⁴

3 Regulations in Northern Ireland

3.1 Waste

Scrap metal dealers are primarily regulated by waste legislation. The *Waste Management Licensing (NI) Regulations 2003* along with the *Pollution, Prevention and Control (NI) Regulations 2003* require scrap metal dealers to have a waste management licence or a pollution prevention control (PPC) permit.⁵

The following response to an Assembly question details departmental responsibility and possible forward plans to deal with metal theft:

The primary responsibility for combating theft (including of metal) lies with the PSNI and the Department of Justice. However, DOE recognises the benefit of using the environmental legislation that it is charged with enforcing to assist in tackling the problem using a multi-agency approach.

Through a strategic partnership, the Northern Ireland Environment Agency is working with the PSNI on all environmental crime and the harm it does to

¹ Information received from the PSNI DALO via email on 16 May 2012. Please note that statistics have been taken from a live crime recording system and may be subject to change.

² BBC News, *Metal theft payouts costing insurers '£1m a week'*, 21 May 2012. Available at: <http://www.bbc.co.uk/news/uk-18142797> [Accessed 08/06/2012]

³ HOC Transport Committee, Written evidence from the Association of Police Officers (CTR 12), 31 October 2011 Available at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtran/1609/1609vw12.htm>

⁴ Oireachtas Library and Research Service, *Regulation of scrap metal in Ireland*, 14 June 2012: Information received following a request from the Northern Ireland Research and Information Service on 7 June 2012.

⁵ Northern Ireland Assembly, 17 November 2011, AQO 864/11-15

communities. The issue of metal theft has been identified as one where the environmental legislation implemented by DOE has a role to play in tackling the issue of metal theft. As a result of the Department's officers sharing knowledge on DOE's waste enforcement powers and working with PSNI colleagues, a number of cases involving suspected metal theft are currently being progressed through the Courts where defendants have breached environmental legislation as part of their activities.

The Department has a robust monitoring system for licensed waste management facilities including those that can accept scrap metal, and will also be participating in an inter-agency group, to be led by the Department of Justice, examining possible responses to tackling the issue of metal theft in Northern Ireland.⁶

3.2 Planning

Under Article 11 of the *Planning (Northern Ireland) Order 1991*⁷, planning permission is required for waste disposal on land whether it consists of engineering operations to infill land, the temporary deposit or the final disposal of waste material on land.⁸

Planning Policy Statement 11 (PPS11) provides planning guidance with regards to planning and waste management. It details considerations that will be assessed when applications are received for a proposed waste management facility. PPS11 categorises scrap metal as an 'industrial waste'.

4 Regulations in the UK and Ireland

4.1 England and Wales

The *Scrap Metal Dealers Act 1964* requires that all scrap metal dealers register with their local authority. The *Legal Aid, Sentencing and Punishment of Offenders Act 2012* provided for prohibition of cash payments to purchase scrap metal and an increase in the fines for offences under the existing Scrap Metal Dealers Act 1964. Furthermore, the Home Office is in discussion with other government departments regarding possible changes to the 1964 Act.⁹

Scrap metal dealers are required to have planning permission to operate a site. The *Environmental Protection Act 1990* legislates that scrap metal dealers must hold the relevant permits and/or exemptions from the Environment Agency (EA). The Act imposes a duty of care to ensure that there is no unauthorised deposit, treatment or disposal of waste and that

⁶ Northern Ireland Assembly, 3 June 2012, AQW 9310/11-15

⁷ The Planning (Northern Ireland) Order 1991 <http://www.legislation.gov.uk/nisi/1991/1220>

⁸ The Planning Service, *Planning Policy Statement 11 (PPS11); Planning & Waste Management*, December 2002 http://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/pps11.htm

⁹ HL Deb, 28 May 2012, c127W

it only be transferred to an authorised person and along with a written description of the waste¹⁰. The Act states that anyone who does not have the correct permits can be subject to a fixed penalty notice or fines of up to £50,000 or 5 years imprisonment.¹¹

The Environmental Permitting Regime is a single regulatory framework for waste management licensing, pollution prevention and control, water discharge consenting, groundwater authorisations and radioactive substances regulation.¹² The Regime covers facilities previously regulated under the Pollution Prevention and Control Regulations 2000, and Waste Management Licensing and exemptions schemes (as superseded by the Environmental Permitting (England and Wales) Regulations 2007), some parts of the Water Resources Act 1991, the Radioactive Substances Act 1993 and the Groundwater Regulations 2009.¹³

4.2 Scotland

Section 28 of the *Civic Government (Scotland) Act 1982* provides for the licensing and regulation of metal dealers. It requires that anyone who is carrying out business as a metal dealer must obtain a metal dealer's licence. Licences are subject to conditions set by the licensing authority, and maintaining full records is a mandatory condition of all licences. The authority that issues the licence can attach further conditions that they deem necessary. An exemption warrant may be granted where the business has a certified turnover of over £100,000.

The Scottish Government have proposed an increase in the exemption figure to £10 million through the *Civic Government (Scotland) Act 1982 (Metal Dealers' Exemption Warrants) Order 2012*.¹⁴ Consultation on the contents of the Order closed on 29 February 2012. Following an analysis of consultation responses, Justice Secretary Kenny MacAskill announced¹⁵ that dealers with an annual turnover of £1 million or less will need a licence to operate. Consideration is also being given to remove the threshold entirely so that all dealers are brought into the scheme. Furthermore, action will be taken on cash payments for metal with the view of removing the attraction of 'easy ready cash payments'.

4.3 Ireland

¹⁰ *Environment Protection Act 1990*, Section 34(1)

¹¹ *Environment Protection Act 1990*, section 33

¹² Department for Environment, Food and Rural Affairs, *Environmental permitting*. Available at: <http://www.defra.gov.uk/environment/quality/permitting/> [Accessed 22 June 2012]

¹³ Department for Environment, Food and Rural Affairs, *Environmental Permitting Guidance*, March 2012. Available at: <http://www.defra.gov.uk/publications/files/pb13560-ep2010guidance-120309.pdf> [Accessed 22 June 2012]

¹⁴ The Scottish Government, *Consultation on Civic Government (Scotland) Act 1982 (Metal Dealers' Exemption Warrants) Order 2012*. Available at: <http://www.scotland.gov.uk/Publications/2011/11/29083550/3> [Accessed 30 May 2012]

¹⁵ The Scottish Government, News release: *Scrapping metal theft*, 6 June 2012. Available at: <http://www.scotland.gov.uk/News/Releases/2012/06/metaltheftconsultation06062012> [Accessed 08 June 2012]

Scrap metal is primarily regulated by waste legislation. This is in the form of the *Waste Management Acts 1996 to 2011* and subsequent regulations arising from the Acts. It makes provision in relation to the prevention, management and control of waste.

Under the *Waste Management (Facility Permit and Registration) Regulations 2007* (as amended by the *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008*), facilities handling waste are required to make a permit application to a local authority. Permits last for 5 years.

The *Planning and Development Act 2000* states that planning permission be sought for a development that will be used for:

*The deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, **old metal**, mining or industrial waste, builders' waste, rubbish or debris.*¹⁶

¹⁶ The Planning and Development Act 2000, Part 1 Section 2