

REPUBLIC OF ZAMBIA

THE SCRAP METAL DEALERS ACT

CHAPTER 409 OF THE LAWS OF ZAMBIA

CHAPTER 409 THE SCRAP METAL DEALERS ACT

THE SCRAP METAL DEALERS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Saving
4. Prohibition against dealing in scrap metal without a licence
5. Application for licence
6. Grant of licence
7. Register of transactions
8. Restrictions on acquisition of scrap metal, and employment of young persons,
by scrap metal dealers
9. Restrictions on dealings with specified scrap metal
10. Duty to report certain matters to police
11. Scrap metal to be kept for seven days
12. Power of search
13. Cancellation of licences
14. Penalty
15. Rules

CHAPTER 409

SCRAP METAL DEALERS

Acts No.
58 of 1960
69 of 1965
28 of 1968
18 of 1993
13 of 1994
Government Notice
497 of 1964

An Act to provide for the licensing of dealers in scrap metal; to regulate the business of such dealers; and to provide for matters connected therewith and incidental thereto.

[1st July, 1961]

1. This Act may be cited as the Scrap Metal Dealers Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"article" means anything consisting wholly or partly of metal and includes any part of such thing;

"certificate of clearance" means a certificate of clearance issued under section *nine*;

"contravene" in respect of any provision of this Act, includes a failure to comply with such provision;

"licence" means a licence granted under the provisions of section *six*;

"licensing authority" means-

- (a) in the area of a city council, a municipal council or township council, such council;
- (b) in any other area, the District Secretary for the District in which such area is situate;

The Laws of Zambia

"metal" means aluminum, cobalt, copper, iron, lead, manganese, vanadium, cadmium, tungsten, zinc, all other ferrous and non-ferrous metals and alloys of those metals, but does not include gold, silver or platinum except to the extent that one-tenth of one per centum or less of the weight of such an alloy as aforesaid is attributable to gold, silver or platinum;

"place" includes any land, whether consisting of enclosed premises or not;

"police officer" means a member of the Zambia Police Force of or above the rank of Sub-Inspector;

"scrap metal" includes-

- (a) any old metal or broken metal;
- (b) any broken, worn out or defaced or manufactured, or partly manufactured, processed or wrought articles which are not fit for the purpose for which they were manufactured, processed or wrought or which are no longer so required;
- (c) metallic waste;
- (d) any metal occurring as a mineral in a raw or natural state in quantities of less than one thousand pounds in weight excepting when utilised *bona fide* as raw metal geological specimens;

"scrap metal dealer" means any person who carries on a trade or business which consists wholly or partly of buying and selling scrap metal, whether the scrap metal sold is in the form in which it was bought or otherwise, and includes any person who, from a person other than a scrap metal dealer, buys or acquires scrap metal as a material for further processing or for the manufacture of other articles or for export, but does not include any person engaged in mining who in the course of his mining business buys or sells scrap metal from or to another such person;

"scrap metal store" means any place where scrap metal is received or kept in the course of the business of a scrap metal dealer or under the provisions of this Act;

"stolen" means stolen, extorted or otherwise unlawfully taken, obtained or disposed of.

(As amended by No. 69 of 1965 and No. 28 of 1968)

3. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Trades Licensing Act.

Saving
Cap. 393

The Laws of Zambia

4. Any person who carries on business as a scrap metal dealer otherwise than as the holder of a licence or otherwise than in accordance with the conditions of his licence shall be guilty of an offence.

Prohibition against dealing in scrap metal without a licence

(As amended by No. 28 of 1968)

5. (1) Any person who proposes to carry on business as a scrap metal dealer shall make application, in such form and containing such particulars as may be prescribed, for a licence to the licensing authority in whose area is situate any place proposed to be occupied by him wholly or partly for the purposes of that business or proposed to be occupied by him as a scrap metal store.

Application for licence

(2) A licensing authority shall not consider an application for the grant of a licence unless it is satisfied that the applicant has given at least fourteen days' notice of his intention to apply for the licence as provided in subsection (3).

(3) A notice of intention to apply for a licence shall be in the prescribed form and shall be given by publication in the *Gazette* and in two issues of a newspaper circulating in each area where premises mentioned in the notice are situate, and the period of fourteen days mentioned in subsection (2) shall be reckoned from the date of the last publication of the notice.

(No. 28 of 1968)

6. (1) Upon receipt of an application for a licence, a licensing authority may, in its discretion-

Grant of licence

(a) refuse to grant such licence; or

(b) grant such licence either unconditionally or subject to such conditions as the authority may think fit to impose.

(2) An applicant for a licence who is refused such licence, or whose application is granted subject to conditions, shall be entitled to lodge an appeal against the decision of the licensing authority to the Minister.

(3) Notwithstanding the provisions of subsection (1), a licence shall not be granted unless the licensing authority is satisfied that the applicant is a fit and proper person to hold a licence.

(4) There shall be paid to a licensing authority on the grant of a licence the sum of seven hundred and fifty fee units.

(As amended by No. 28 of 1968 and Act No. 13 of 1994)

7. (1) Subject to the provisions of this section, every scrap metal dealer shall, at each scrap metal store occupied by him, keep or cause to be kept a register consisting of a book in the prescribed form (hereinafter referred to as "the register"), of all transactions relative to his business as such a dealer and shall enter therein the number assigned by him to a transaction and the particulars required by this section with respect to all scrap metal received or kept at, processed at or despatched from that store but shall not at any one scrap metal store at any one time have in use, for the purposes of this Act, more than one register.

Register of transactions

(2) The particulars required to be entered in the register are-

- (a) in the case of scrap metal received or kept at a scrap metal store-
- (i) a description of the type, physical characteristics and distinguishing features of the scrap metal sufficient to identify it accurately, the form in which it is received and its weight;
 - (ii) the date and time of the receipt of the scrap metal by the scrap metal dealer or his servant or agent;
 - (iii) where the scrap metal is received by a servant or agent, the name of the servant or agent;
 - (iv) the full name and address of the person from whom the scrap metal is received and of the person from whom it was purchased or otherwise acquired;
 - (v) the source of the scrap metal, that is to say, the full name and address of the person from whom the seller or donor acquired title to sell or otherwise dispose of the scrap metal to the scrap metal dealer;
 - (vi) the consideration given or to be given in respect of the scrap metal;
 - (vii) the date and place of issue of the certificate of clearance, if any, issued in respect of the scrap metal;
 - (viii) in the case of scrap metal delivered at a scrap metal store by means of a motor vehicle (whether the vehicle belongs to the scrap metal dealer or not), the registration number of the vehicle;
 - (ix) such other particulars as may be prescribed;
- (b) in the case of scrap metal despatched from, or processed at, a scrap metal store-
- (i) a description of the type, physical characteristics and distinguishing features of the scrap metal sufficient to identify it accurately, the form in which it is despatched or processed and its weight;
 - (ii) the date of processing or, as the case may be, despatch of the scrap metal, and, if processed, the process applied;
 - (iii) the full name and address of the person to whom the scrap metal is despatched;
 - (iv) the full name and address of the person to whom the scrap metal is sold or otherwise disposed of;
 - (v) the consideration given or to be given on the sale or other disposal of the scrap metal;
 - (vi) such other particulars as may be prescribed.

(3) Any particulars required to be entered in the register by this section shall be so entered within twenty-four hours after the receipt of, processing at, or despatch from the scrap metal store concerned.

(4) Scrap metal shall not be described in the register by reference to any term used in the International Code to describe non-ferrous scrap metal unless that term is generally comprehensible.

(5) Every scrap metal dealer shall on demand allow any police officer to enter his place of business or any place occupied by him as a scrap metal store and to inspect the register required to be retained or to be kept at that place and any books of account and certificates of clearance relating to transactions in scrap metal kept by the scrap metal dealer.

(6) Every register kept by a person in pursuance of subsection (1) shall be a bound book kept exclusively for the purposes of this section and shall be retained by him and be available for inspection in the scrap metal store until the end of the period of three years beginning with the day on which the last entry was made in the register.

(7) Every entry in the register kept by a scrap metal dealer shall be deemed, unless the contrary is proved, to have been made by or under the authority of that dealer.

(8) Every scrap metal dealer shall keep displayed prominently in each place occupied by him as a scrap metal store a notice in the prescribed form specifying the penalties provided under this Act for giving false information to scrap metal dealers.

(9) Any person who-

(a) contravenes any provision of this section; or

(b) knowingly makes any false entry in the register; or

(c) gives to a scrap metal dealer or his servant or agent any false particulars concerning his name and address or concerning the source of the scrap metal in question;

shall be guilty of an offence.

(10) In this section, "processing", in relation to scrap metal, includes heating, burning, annealing, melting down and any other process whereby the material ceases to be scrap metal, but does not include dismantling or breaking up, and "processed" shall be construed accordingly.

(No. 28 of 1968)

8. (1) A scrap metal dealer shall not, by himself or by any other person, purchase or otherwise acquire or dispose of any scrap metal-

Restrictions on acquisition of scrap metal, and employment of young persons, by scrap metal dealers

- (a) between the hours of nine o'clock in the evening and seven o'clock in the morning; or
- (b) from any person apparently under the age of sixteen years.

(2) A scrap metal dealer shall not employ, whether as servant, apprentice or otherwise, any person under the apparent age of sixteen years.

(3) Any person who contravenes any provision of this section shall be guilty of an offence.

(As amended by No. 28 of 1968)

9. (1) A person shall not sell or otherwise dispose of any scrap metal consisting wholly or principally of cobalt, copper, brass, bronze, lead or zinc or any other metal that may be prescribed (in this section referred to as specified scrap metal) to a scrap metal dealer unless that person at the time of sale or other disposition produces and surrenders to the dealer or other person on behalf of the dealer a certificate of clearance in respect of the said specified scrap metal.

Restrictions on dealings with specified scrap metal

(2) A scrap metal dealer shall not by himself or any other person purchase, acquire or otherwise receive any specified scrap metal from any person unless that person at the time of sale or other acquisition produces and surrenders to the dealer or other person on behalf of the dealer a certificate of clearance in respect of the said scrap metal.

(3) On the surrender of a certificate of clearance under this section, the scrap metal dealer shall endorse or cause to be endorsed thereon the number assigned to the transaction relating to the specified scrap metal concerned and entered in the register kept under section seven and retain, as long as he retains the said register, the certificate of clearance available for inspection pursuant to section seven at the scrap metal store where the specified scrap metal is received or kept.

(4) A police officer in charge of a police station may issue to an applicant therefor a certificate of clearance in the prescribed form in respect of specified scrap metal if he is of opinion that the scrap metal has not been stolen or obtained unlawfully and that the applicant is not apparently under the age of sixteen years.

The Laws of Zambia

(5) The Minister may prescribe rules as to the weighing and description of specified scrap metal for the purposes of this section.

(6) Any person or scrap metal dealer who contravenes any provision of subsection (1), (2) or (3) shall be guilty of an offence.

(No. 28 of 1968)

10. (1) Any scrap metal dealer, or any person employed by such dealer in his business as such, who-

Duty to report certain matters to police

(a) has reason to believe that any scrap metal offered to him has been stolen; or

(b) having acquired any scrap metal, thereafter has reason to believe that such metal was, before such acquisition, stolen;

shall immediately inform a member of the Zambia Police Force accordingly and shall furnish such officer with any information in his possession relating to the person who offered such scrap metal or from whom such metal was acquired.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence.

(As amended by No. 28 of 1968)

11. (1) Every scrap metal dealer shall retain and keep all scrap metal purchased or received by him without heating, burning, annealing, curing or defacing the scrap metal or in any manner changing the appearance or form in which the scrap metal was purchased or received for a period of seven days after the scrap metal has been so purchased or received:

Scrap metal to be kept for seven days

Provided that in any particular case a police officer may, by authority in writing and subject to such conditions as he may think necessary, exempt a scrap metal dealer from all or any of the restrictions imposed by this subsection.

(2) Any scrap metal dealer who contravenes any provision of subsection (1) shall be guilty of an offence.

(No. 28 of 1968)

12. (1) A police officer, if he has reason to believe that any stolen scrap metal is kept in or about any premises by a scrap metal dealer, may, at any time and without warrant, enter and search such premises.

Power of search

(2) A police officer carrying out a search under subsection (1) may seize and detain any scrap metal found in or about the premises concerned which he has reason to believe has been stolen.

(3) Any person who hinders or obstructs, or attempts to hinder or obstruct, a police officer in the exercise or attempted exercise of any power conferred by this section shall be guilty of an offence.

(4) Where any scrap metal which is subsequently proved to have been stolen by any person, known or unknown, or which may be reasonably suspected of having been stolen, is found on any premises belonging to or in the occupation of a scrap metal dealer, the scrap metal dealer shall, unless he gives to the satisfaction of the court an account of how he came by the same, be guilty of an offence.

(As amended by No. 28 of 1968)

13. (1) Where any scrap metal dealer is convicted of an offence against this Act, or of any offence under section *two hundred and eighty-seven* or *two hundred and eighty-nine* of the Penal Code, or under Chapter XXVI, XXIX, or XXXI of the said Code, the court shall cancel the licence held by such dealer and prohibit such dealer from holding any further licence for such period as the court shall deem fit.

Cancellation of
licences
Cap. 87

(2) Where a licence is cancelled under the provisions of this section, the court shall forthwith notify the licensing authority by which such licence was granted accordingly.

(3) Any person who, during the period in respect of which he has been prohibited under the provisions of this section from holding a licence, applies to a licensing authority for, or obtains, a licence shall be guilty of an offence.

(4) Notwithstanding any other provision of this Act, a scrap metal dealer whose licence has been cancelled under the provisions of this section may, for a period of one month from the date of such cancellation, sell the scrap metal in his possession at the date of the cancellation.

(As amended by Act no. 18 of 1993)

14. (1) Any person guilty of an offence under this Act shall, upon conviction, be liable to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

Penalty

(2) Where a person is convicted of an offence under this Act the court which convicts him shall, in addition to any other penalty imposed under subsection (1), order the forfeiture of all the property which is the subject of that offence or which has been used for the commission of that offence:

The Laws of Zambia

Provided that a conveyance which has been used for the commission of the offence shall not be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of the conveyance for the commission of the offence was without the consent and knowledge of the owner or person in charge of the conveyance and was not due to any neglect, default or lack of reasonable care by the owner or the person in charge of the conveyance.

(3) Where it is proved to the satisfaction of the court that an offence has been committed under this Act, the court shall make an order for the forfeiture of all property which is the subject matter of that offence or which has been used for the commission of that offence, notwithstanding that no person may have been convicted of the offence:

Provided that the proviso to Sub-section (2) shall apply in relation to an order for forfeiture under this Sub-section.

(As amended by Acts No. 18 of 1993 and No. 13 of 1994)

15. The Minister may, by statutory instrument, make rules for the purpose of prescribing anything which, by any provision of this Act, is to be prescribed. Rules

SUBSIDIARY LEGISLATION

SCRAP METAL DEALERS

Cap. 409

SECTION 5-PRESCRIBED FORMS

*Government Notice
81 of 1961*

Notice by the Minister

The forms set out in the Schedule are hereby prescribed as the forms to be used as respectively applicable for the purposes of the Act.

SCHEDULE

THE SCRAP METAL DEALERS ACT

APPLICATION FOR GRANT OF A SCRAP METAL DEALER'S LICENCE

Name of applicant

Postal address.....

.....

.....

Business name (if any).....

.....

Premises on or from which business conducted:

Stand No.....

Street No.....

Name of street.....

Town.....

Signature of applicant.....

Status.....

Date.....

THE SCRAP METAL DEALERS ACT

SCRAP METAL DEALER'S LICENCE

No.....

A Scrap Metal Dealer's Licence is hereby granted to-

.....

of (town).....

trading under the name of

.....

to carry on the business of Scrap Metal Dealer at (premises):

Stand No.

Street No.....

Name of street.....

Town.....

This licence is subject to the following conditions:

.....
.....
.....
.....
.....

.....
Licensing Officer

Fee: 750 fee units

Date.....