



Scrap Metal Dealers Bill: Committee Stage Report

RESEARCH PAPER 12/66 6 November 2012

This is a report on the House of Commons Committee Stage of the *Scrap Metal Dealers Bill*, Bill 69 of 2012-13. The Bill, which has Government support, is a Private Member's Bill sponsored by Richard Ottaway. It would introduce additional regulatory controls on scrap metal dealers in order to reduce the opportunities for metal thieves to sell stolen material.

This report focuses on key amendments and areas of debate at Committee Stage—it does not represent a full summary of the debate. It complements Library Research Paper 12/39 prepared for the House of Commons Second Reading, which occurred on 13 July 2012.

A number of amendments were made to the Bill in Committee. Government amendments included: changes to the definition of scrap metal to include platinum; the removal of a national cap on scrap metal dealer licence application fees; and, provisions for a defence against certain offences where all reasonable steps had been taken. The Opposition amended the Bill to require scrap metal dealers to keep records for three years, rather than two.

The Report Stage of the Bill is scheduled for 9 November 2012.

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Summary

This is a report on the [House of Commons Committee Stage of the *Scrap Metal Dealers Bill*](#). This report focuses on key amendments and areas of debate at Committee Stage - it does not represent a full summary of the debate. It complements [Library Research Paper 12/39](#) prepared for the [House of Commons Second Reading](#), which occurred on 13 July 2012.

The Bill is a Private Member's Bill sponsored by Richard Ottaway. It would introduce additional regulatory controls on scrap metal dealers to reduce the opportunities for metal thieves to sell stolen material.

The Bill had its Second Reading on 13 July 2012.¹ There was cross-party support for the Bill. The Bill passed to Committee Stage without a division.

The Committee sat on 11 and 12 September 2012, when the Bill again had cross party support. Jeremy Browne, Home Office Minister, said that the Government "remain strongly committed" to the Bill.² Graham Jones, for Labour, said that he "hoped" the Bill "would be enacted in the near future", although he called for some minor amendments.³

A number of amendments were made to the Bill in Committee. Government amendments included: changes to the definition of scrap metal to include platinum; the removal of a national cap on scrap metal dealer licence application fees; and, provisions for a defence against certain offences where all reasonable steps had been taken. The Opposition amended the Bill to require scrap metal dealers to keep records for three years, rather than two.

The Bill is scheduled to have its Report Stage on 9 November 2012.

¹ HC Deb 13 July 2012 c576

² PBC Deb (Bill 69) 11 September 2012 c7

³ Ibid, c5

1 Second Reading

The Bill had its Second Reading on 13 July 2012. In introducing his Bill, Richard Ottaway set out the economic and social impacts of metal theft. He described scrap metal dealers as “the main outlet for stolen metal”,⁴ and stated that the existing regulatory regime for dealers was “out of date” and required “wholesale reform”⁵ to “disrupt and then shut down the trade in stolen metal”.⁶ He described some problems with the existing legislation:

Under its provisions, scrap metal dealers are required to register with local authorities, but the authorities have no power to turn down or revoke a licence. Indeed, the obligation to get a licence is often ignored. There is nothing to compel accurate record keeping or to verify the ID of the seller. False names and addresses are logged with impunity... Under the Act, there is a complete lack of co-ordination between the authorities, which have limited powers of inspection. Scrap metal dealers are also able to trade in cash... No records are kept and no taxes are paid.⁷

Richard Ottaway went on to outline the main provisions of his Bill:

- **A comprehensive ban on cash payments for scrap metal, including for mobile collectors and vehicle salvage operators.**
- **New licensing requirements:** “that no one may carry on a business as a scrap metal dealer, or motor salvage operator, unless they have a licence from their local authority. The licence will be valid for three years, and a licence fee will be charged to cover the cost to local authorities of administering the licensing regime and ensuring compliance”.
- **Suitable person requirements:** “Clause 3 will give local authorities the power to turn down applicants unless they are satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer. Unsuitability may be determined by a range of factors, including a criminal conviction”.
- **Power to revoke licences:** “Clause 4 will give local authorities the power to revoke a licence. The Bill will also give the police and local authorities greater powers to take action against unregistered dealers”.
- **New powers to enter and inspect scrap yards.**
- **New powers to close unlicensed premises with a court order.**⁸
- **A new national register of scrap metal dealers:** “creation of a single, national publicly available register of all licensed scrap metal dealers, which will be maintained by the Environment Agency. It will be fully transparent and accessible to the public, and will for the first time give a national picture of the industry.”⁹

David Hanson, Labour Shadow Home Office Minister, stated that his party would not oppose the Bill. He said that Labour wanted “swift progress because the level of metal theft is causing irreparable damage to people’s lives and unacceptable disruption to our

⁴ HC Deb 13 July 2012 c576

⁵ Ibid, c579

⁶ Ibid, c578

⁷ Ibid, c580

⁸ Ibid, c581

⁹ Ibid, c582

communities". He believed that "the Bill will be a good addition to the police's armoury in tackling metal theft", and he supported a range of proposals in the Bill.^{10 11}

However, David Hanson called for clarity on certain aspects of the Bill, such as the identity verification requirements.¹² He also listed a number of "outstanding issues that the Bill does not address" including: Environment Agency funding for enforcement; calls for domestic appliance and gold traders to be covered by the legislation; overlapping regulatory regimes; and, the export of stolen metal.¹³

James Brokenshire, Home Office Minister, indicated the Government's support for the Bill, although he recognised that some issues required further scrutiny in Committee.¹⁴ He noted that the Government had already introduced changes to legislation to ban certain cash payments, to amend "police powers of entry to unregistered scrap metal sites" and to increase "the financial penalties for offences under the *Scrap Metal Dealers Act 1964*". However, he stated that these changes were "a first step... we always considered the 1964 Act to be outdated and in need of reform".¹⁵ He urged Members to support the Bill.¹⁶

The Bill completed its Second Reading without a division.¹⁷

2 Key issues debated in Committee

2.1 Clause 2—Personal licences

Graham Jones, for Labour, called for amendments to the Bill that would introduce personal licences for those who work in the scrap metal sector, alongside the other licences in the Bill for operating a scrap metal site and acting as a collector. He drew parallels with taxi regulations, which require both the operator and individual taxi drivers to be licensed.

Jeremy Browne, Home Office Minister, rejected the proposal. He said that "introducing a third licence... would be excessively onerous and burdensome upon local authorities and the owners of sites".¹⁸ The Minister stated that the existing requirements of the Bill were robust enough to ensure that employees of scrap metal dealers "could not indulge in criminal activity without the fear that the Bill... will apply to them".¹⁹

The amendment was rejected on division by nine votes to three.²⁰

2.2 Clause 2—Requirements to display licences

A number of Members spoke to amendments that would require licences to be displayed prominently at scrap metal yards and/or in scrap metal collection vehicles, to facilitate compliance and policing of the regime.²¹ The Minister rejected these calls as potentially restricting the way in which the regime could be enforced in the future. He stated that such

¹⁰ Ibid, c597

¹¹ Ibid, c601

¹² Ibid

¹³ Ibid

¹⁴ Ibid, c612

¹⁵ Ibid

¹⁶ Ibid, c615

¹⁷ Ibid

¹⁸ PBC Deb 11 September 2012 c7

¹⁹ Ibid

²⁰ Ibid, c14

²¹ Ibid, c16

requirements could be laid out in secondary legislation following consultation with stakeholders.²² The amendments were withdrawn.²³

However, on 2 November 2012, the Home Secretary Teresa May tabled an amendment that would require site and collector licences to be displayed prominently at scrap metal sites and in scrap metal collection vehicles respectively.²⁴

2.3 Clause 3—Duty to consult

Clause 3(7) as introduced stated that a local authority “may consult other persons regarding the suitability of an applicant”. David Hanson spoke to an amendment that would have replaced “may” with “must”, arguing that this would give consistency of approach from every local authority.²⁵

In response, the Minister said that it would be “excessively onerous” to make it mandatory for the local authority to consult those listed in clause 3(7) rather than discretionary, particularly in cases where the licence application had been made by a respected bona fide dealer well known in the area.²⁶ Richard Ottaway said “one has to trust the local authorities to a degree”.²⁷

The amendment was negated on division by eight votes to five.

2.4 Clause 3—Bodies that may be consulted

The Committee agreed a Government amendment to add “any other local authority” to the list of bodies that a local authority may consult when considering the suitability of a licence applicant.²⁸

It also considered two amendments tabled by David Hanson. The first sought to replace the wording “an officer of a police force” with “the chief constable of a relevant police authority” and the second sought to add “other environmental groups” to the list of those a local authority may consult.²⁹ In relation to the first amendment, Mr Hanson said that it would give “a senior level of authority to the consultation that is undertaken”, although he acknowledged that the chief constable would undoubtedly delegate the responsibility down. In relation to the second, he accepted that the wording was “woolly” but said he would welcome the Minister’s view on whether the listed bodies in clause 3(7) should be extended beyond the Environment Agency to other environmental groups.

The Minister said that the first amendment would put a routine burden on very senior police officers, and that the second was too loosely defined for the Bill.³⁰

The amendments were withdrawn.

2.5 Clause 3—Licence conditions

The Committee agreed a number of Government amendments to clause 3(8), which lists the conditions a local authority may include in a licence. The Government amendments made

²² Ibid, c21

²³ Ibid, c22

²⁴ Scrap Metal Dealers Bill, Notices of amendments, 2 November 2012

²⁵ PBC Deb 11 September 2012 c24

²⁶ Ibid, c28

²⁷ Ibid, c31

²⁸ Ibid, c32

²⁹ Ibid, c25

³⁰ Ibid, c28

clear that the local authority would only be able to impose these conditions if the licence applicant had been convicted of a “relevant offence” (to be prescribed in regulations made by the Secretary of State). They also introduced a new right of appeal against the imposition of conditions. The Minister said that licence conditions were intended to be “probationary arrangements where there was reason to believe that the revocation of the licence would be excessive but where practices mean such greater restrictions were appropriate”.³¹ It was not the Government’s intention that local authorities should be able to impose these conditions as a matter of course.

David Winnick tabled amendments that sought to add two new conditions to the list in clause 3(8). The first was “other such conditions as are consistent with preventing crime”, while the second was a condition “that all sales and purchases should be supported by photographic evidence”.³² Mr Winnick said that the first of these would give local authorities flexibility and enable them to impose “local conditions” in the same way as other forms of licensing.

The Minister said that the first amendment was “extraordinarily wide, covering crime in all its forms”, and that the second was “excessively onerous to deploy as a matter of course”.³³ However, he said that the Home Office could (with the permission of the Bill’s sponsor Richard Ottaway) look at tightening up the wording of the first amendment.³⁴ Mr Ottaway said that he would be pleased for the Home Office to consider this matter. The amendment was withdrawn.

2.6 Clause 3—Requirement to publish licence fees

Graham Jones moved an amendment that would have added a new provision to clause 3 requiring local authorities to publish the fees payable for licences 28 days before those fees took effect.³⁵

The Minister accepted the spirit of the amendment, acknowledging that other fees levied by local authorities have stipulated notice periods so that people know where they stand. He undertook that the Government would introduce its own version of the amendment. On that basis, Mr Jones withdrew his amendment.

2.7 Clause 4—Scrap metal dealing pending licence revocation appeals

David Hanson, Labour Shadow Home Office Minister, asked for a clarification of the implications of the appeals process on the ability of scrap metal dealers to continue trading. He pointed out that as currently drafted dealers could continue trading during the licence revocation appeals process, for up to 21 days. He argued that this was not appropriate given the serious concerns that an authority would have if it chose to seek revocation of a licence.

However, he also noted that the local authority *might* be able to stop trading during this period under clause 3(8), by specifying that the dealer could not operate “between the hours of 24 and 24 for the next 21 days”. The Minister accepted that this was a valid point and stated that the Government would “have a look at the matter”.³⁶

2.8 Clause 7—Availability of the scrap metal dealer register online

David Hanson spoke to an amendment that would require the Environment Agency to place a copy of the scrap metal dealer register online. The Minister said that the Environment

³¹ Ibid, c33

³² Ibid, c34

³³ Ibid, c34

³⁴ Ibid, c35

³⁵ Ibid, c36

³⁶ Ibid, c40

Agency would place the register online. However, he spoke against the amendment as he believed that it would be inappropriate to specify in the Bill how the register should be made available as this could lead to a lengthy and unhelpful list of all the other ways in which the information might be provided.³⁷

The amendment was withdrawn.

2.9 Clause 10—Verification of supplier’s identity

The Committee agreed Government amendments to provide a defence to the clause 10 offence of failing to verify a supplier’s identity. The defence will apply where the person charged can prove that he made arrangements to ensure that metal was not received in breach of the requirement to verify identity, and that he took all reasonable steps to ensure those arrangements were complied with.

2.10 Clause 11—Cashless payments

The Committee agreed similar Government amendments to provide a defence to the clause 11 offence of buying scrap metal for cash.³⁸ Again, the defence will apply where the person charged can prove that he made arrangements to ensure that payment was not made in breach of the prohibition on cash payments, and that he took all reasonable steps to ensure that those arrangements were complied with.

The Committee also considered an amendment moved by Labour. Clause 11(1) provides that cheques and electronic transfers would be the only two lawful methods of paying for scrap metal. Clause 11(2) would enable the Secretary of State to amend clause 11(1) by order to permit other methods of payment. Mr Hanson’s amendment sought to add the words “excluding cash payments” to the end of clause 11(2). He said that this would prevent a future Home Secretary from circumventing the entire purpose of the Bill by amending clause 11(1) by order to include cash payments.³⁹

The Minister said that the purpose of the order-making power in clause 11(2) was to “future-proof” the Bill against potential new methods of payment. He acknowledged that there were no formal means in the Bill to prevent a future Home Secretary from using the order-making power to permit cash payments, but considered that the amendment “would end up looking like a fairly perverse bit of drafting to prevent a seemingly extremely unlikely measure from taking place”.⁴⁰ Richard Ottaway added that it would be “pretty perverse” for a future Home Secretary to act in this way and that he suspected “he or she would not get far”.⁴¹

The amendment was withdrawn.

2.11 Clause 12—Defence to failure to keep records of dealings

The Committee agreed Government amendments along the lines of those already agreed in relation to clauses 10 and 11.⁴² The amendments provide a defence to the clause 12 offence of failing to keep records of dealings. The defence will apply where the person charged can prove that he made arrangements to ensure that the requirement to keep records of dealings was fulfilled, and that he took all reasonable steps to ensure those arrangements were complied with.

³⁷ Ibid, c43

³⁸ Ibid, c53

³⁹ Ibid, c50

⁴⁰ Ibid, cc50-1

⁴¹ Ibid, c51

⁴² Ibid, c55

2.12 Clause 12—Record keeping

David Hanson spoke to an amendment that would require scrap metal dealers to retain records for three years, rather than two years as set out in the Bill. This was to improve consistency by bringing the record keeping requirements into line with the duration of the scrap metal dealer licence period (also three years).

The Minister stated that he understood the argument but that he did “not feel strongly about the issue”. He noted that the two-year period came “from the 1964 Act”.⁴³ The Minister conceded the point and supported the amendment, which stood part of the Bill.

2.13 Clause 20—Extent and commencement

While recognising that scrap metal regulation was a devolved matter, David Hanson asked the Minister how the Government was co-ordinating with the Administrations in Scotland and Northern Ireland. He pointed out that a metal collector’s licence could be issued in England, but that the metal could be disposed of in Scotland.⁴⁴ The Minister responded that the Home Office would “continue to provide information to the Administrations... and seek to inform their debate so that we can have the most effective regime possible”. However, he noted that it was “ultimately up to them to decide whether legislative changes are required”.⁴⁵ The Scottish Government is currently developing proposals for a scrap metal dealer licensing regime.⁴⁶

David Hanson also asked for clarification on when the provisions of the Bill would come into force following Royal Assent. The Minister said that the main provisions of the Bill would come into force by means of a commencement order. He anticipated that “a period of at least six months will be required” following Royal Assent “to allow licensing authorities to put in place suitable infrastructure to meet the new demands”. He went on that the Home Office would work with the authorities and the industry to “ensure the smooth and successful implementation of the new regime”.⁴⁷

2.14 Schedule 1—Scrap metal dealer licence application fee

The Committee removed a clause that would have required the Secretary of State to set a national cap on the licence application fees which could be charged by local authorities.⁴⁸ Local authorities instead will be required to have “regard to the guidance issued from time to time by the Secretary of State with the approval of the Treasury”.⁴⁹

⁴³ Ibid, c54

⁴⁴ PBC Deb 12 September 2012 c70

⁴⁵ Ibid

⁴⁶ “[Tough stance on metal theft in Scotland unveiled](#)”, BBC News, 2 August 2012 (accessed on 5 November 2012)

⁴⁷ PBC Deb 12 September 2012 c71

⁴⁸ Ibid, c72

⁴⁹ PBC Deb 11 September 2012 c37

Appendix 1 – Committee Members

Chair: Mr Joe Benton

Allen, Mr Graham (Nottingham North) (Lab)

Baldry, Sir Tony (Banbury) (Con)

Browne, Mr Jeremy (Minister of State, Home Department)

Hanson, Mr David (Delyn) (Lab)

Harris, Rebecca (Castle Point) (Con)

Hillier, Meg (Hackney South and Shoreditch) (Lab/Co-op)

Hughes, Simon (Bermondsey and Old Southwark) (LD)

Jones, Graham (Hyndburn) (Lab)

Kelly, Chris (Dudley South) (Con)

Lucas, Caroline (Brighton, Pavilion) (Green)

Nokes, Caroline (Romsey and Southampton North) (Con)

Offord, Dr Matthew (Hendon) (Con)

Ottaway, Richard (Croydon South) (Con)

Pearce, Teresa (Erith and Thamesmead) (Lab)

Walker, Mr Robin (Worcester) (Con)

Winnick, Mr David (Walsall North) (Lab)