



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

**A CONSULTATION
THE MOTOR SALVAGE OPERATORS
REGULATIONS 2002
Vehicles (Crime) Act 2001**

January 2002

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1. INTRODUCTION

1.1 This is in effect a re-consultation exercise. We consulted widely in April 2000 on the proposals to regulate the motor salvage industry and received broad support for our proposals which have been taken forward in The Vehicles (Crime) Act 2001, (hereafter referred to as the Act), which received Royal Assent on 10 April 2001. We are now seeking views on the detail of the regulations to be made under this new legislation. Part I of the Act includes measures requiring motor salvage operators to register with the local authority in whose area they operate. The local authority will be responsible for establishing and maintaining a register of motor salvage operators within their area. Motor salvage operators will be required to keep records of all vehicles received and sold or otherwise disposed of on their registered premises. Operators will be required to obtain proof of identity of the vehicle supplier/purchaser. Police services will have the right to enter and inspect premises and to require the production of or inspect any motor vehicle or parts kept on the premises. They will also have the right to request the production of or to inspect or take copies of any records which the motor salvage operator is required to keep by virtue of the Act. These measures will come into effect following the making of regulations.

1.2 The purpose of this document is to allow all interested parties to comment on the proposed measures being introduced to regulate the motor salvage industry prior to making regulations.

2. BACKGROUND

2.1 This section explains the reasons behind the measures and sets out the objectives.

2.2 VEHICLE CRIME REDUCTION ACTION TEAM (VCRAT)

2.2.1 In September 1998 the Vehicle Crime Reduction Action Team (VCRAT) was established by the Government to develop and implement a strategy to meet the target to reduce vehicle crime by 30% by the end of March 2004. A Task Group of the VCRAT recommended the introduction of mandatory registration of motor salvage operators as an effective means of combating vehicle crime. The Task Group comprised representatives of the police, insurance industry, the International Association of Auto Theft Investigators, the British Vehicle Salvage Federation, the Motor Vehicle Dismantlers Association of Great Britain and Home Office, the then DETR, DTI and DVLA. During development of the proposals, the industry representatives consulted widely with their membership. The previous public consultation document, issued in April 2000, received broad based support for the proposals to regulate the motor salvage industry and have been taken forward by the Government in the Vehicles (Crime) Act 2001.

2.3 WHY REGULATE THE MOTOR SALVAGE INDUSTRY?

2.3.1 Vehicle crime is one of the largest single categories of recorded crime. These measures are designed to make it more difficult for criminals to dispose of stolen vehicles. Scrap metal dealers are regulated by the Scrap Metal Dealers Act 1964, but this does not apply to the motor salvage and dismantling industry. The lack of proper regulation meant that there were many opportunities for the criminal element in the motor salvage industry to dispose of stolen vehicles.

2.3.2 The motor salvage and dismantling industry, along with the scrap metal industry, are also separately regulated under the Environmental

Protection Act 1990, which is to be revised in 2002 in order to implement the End of Life Vehicles Directive requirements for permitted treatment centres. This system is enforced by the Environment Agency and has the objective of ensuring environmental protection and encouraging recycling of motor vehicle parts. Although there are parallels with the scheme under the Vehicles Crime Act, separate regulation is required because of the different emphasis of each scheme.

2.4 OBJECTIVES OF THE SCHEME

2.4.1 The regulation of the motor salvage industry will require operators to

- register with the local authority;
- maintain appropriate records of purchases and disposals;
- carry out identification checks of vendors and purchasers; and
- allow the police the right of entry to premises and the right of search without warrant.

3. OUTLINE OF SCHEME

3.1 The Act provides that any person who carries on a business as a motor salvage operator in the area of a local authority must be registered by the local authority in whose jurisdiction their registered place of business is located. It will be an offence subject to a fine not exceeding level 5 on the standard scale (i.e. not exceeding £5,000) to trade as a motor salvage operator without being registered.

3.2 Register

3.2.1 The Act requires every local authority to establish and maintain a register of motor salvage operators within their area. The local authority must ensure that the contents of the register are available for inspection by members of the public and may charge a fee for this service. If a member of the public requests a copy of an entry on the register, this may be provided and should be certified as a true copy. Again, a reasonable fee may be charged for this service.

3.3 Application for Registration

3.3.1 Local authorities will provide an application form and operators will be required to provide specific information for inclusion on the register. This information will include:

- the name of the business, the name of the applicant or the names of all the directors or partners if the applicant business is undertaken by a body corporate or a partnership, the address of their usual place of residence, the address of the usual place of residence of each applicant or director or partner of the applicant business, the address of each place of business in the local authority area;
- whether it is an initial application or a renewal application, whether any previous application has been refused, by whom and why;
- any unspent convictions under Part I of the Vehicles (Crimes) Act 2001;
- any unspent convictions from a specified list;
- and details of any undischarged bankruptcy.

3.3.2 The registration form should also show the fee payable, and make it clear that the completed application form will be submitted to the police for comment, prior to registration.

3.3.3 The local authority is required to set the fee at a level that allows the recovery of reasonable administration costs only.

3.4 Consideration of Application

3.4.1 Local authorities shall work on the basis that all applicants should be registered unless the registration form is incomplete, the appropriate fee has not been paid or they are not satisfied that the applicant is a “fit and proper” person to carry on the business of a motor salvage operator. Following registration, the local authority will issue a letter of confirmation, which will indicate the date of expiry of the registration and the need to apply for renewal of registration 2 months before that date.

3.4.2 Each registration will be valid for a period of three years. At the end of this period a new application must be made to the local authority to re-register.

3.4.3 The local authority may not refuse registration, refuse to renew registration or cancel registration until it has first notified the applicant that it intends to do so, and allows the applicant fourteen days in which to make representations against the decision. Representations can be made orally or in writing. If the representations are not successful, the applicant can, if they wish to do so, appeal through a Magistrate’s Court.

3.4.5 The local authority may refuse to consider a further application if the applicant has had their registration cancelled or refused as not being a “fit and proper” person for a period of three years. A person refused registration for any other reason may reapply for registration at any time. A person whose registration has lapsed may make an application for registration at any time.

3.5 Offences

3.5.1 A registered operator will be required to notify the local authority of any changes to the details held on the register, and notify cessation of the business as a motor salvage operator within 28 days. Failure to do so will be an offence subject to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000). If any applicant for registration knowingly or recklessly makes a false statement or provides false information that will be an offence. If an applicant, guilty of making false statements, has had an application for registration or renewal refused or had a previous registration cancelled, and not declared it, that will be an offence. (See paragraphs 4.14 - 4.18 of the draft Guidance at Annex C). A complete list of offences can be found at Annex C to the draft guidance.

4. RESPONSES

4.1 Documents attached include a Partial Regulatory Impact Assessment and the proposed guidance on the regulations including the proposed regulations.

4.2 While views are welcomed on all aspects of the proposed guidance and regulations, we would appreciate specific comments on two issues:

4.3 The length of time operators should be required to keep records. The records are required to provide an audit trail that will assist any police investigations. A range of years has been suggested but our current thinking is to adopt 6 years which is in line with the requirement on businesses to keep records for tax and VAT purposes.

4.4 Identification to be required by operators from vendors and purchasers. Again this information is required for the purpose of an audit trail to assist in any police investigations. The onus will be on operators to satisfy themselves of the identity of the vendor or purchaser. We have considered a number of documents that might provide sufficient evidence including passport, driving licence and utility bills. We believe that the primary form of identification should be something that includes a photograph of the individual, e.g. passport, new photocard driving licence or any other photopass (i.e. such as used by a number of employers for their staff). Secondary forms of identification could include multiple letters e.g. Council Tax bill, rent book, utility bills, Social Services letter etc.

4.5 A small business litmus test will be undertaken as part of the consultation process and results will be included in a full RIA, to be published once comments have been received and considered.

4.6 Responses must reach the Home Office, (Vehicle Crime Reduction Section) no later than **1 March 2002**.

The address to which to respond is:

Lutfur Rahman
Action Against Crime and Disorder Unit
Vehicle Crime Reduction Section
Home Office, Room 515,
50 Queen Annes Gate
LONDON SW1H 9AT
Telephone: 020 7273 2508
Fax: 020 7273 2703
E-mail: lutfur.rahmman@homeoffice.gsi.gov.uk

Further copies of this document can be obtained from the address above. It is also available on www.homeoffice.gov.uk/pcrg/aacdu2.htm

4.7 All responses to this document will be acknowledged and considered carefully. Responses and the name of the respondents may be quoted and made available to the public unless confidentiality is specifically asked for. Please indicate if you do not wish this information to be made available.

4.8 Additional copies of this consultation paper can be obtained by contacting: 020 7273 2508.

4.9 This document complies with the "Code of Practice on Written Consultation" issued by the Cabinet Office. Criterion 5.2 allows for a shorter period of consultation when undertaking a re-consultation and in discussion with industry representatives, the police and Government we are seeking comments over an eight week period rather than the full 12 weeks for a new consultation. If you consider that this document does not comply with the consultation criteria reproduced at Annex A, please write setting out the areas where you feel the document departs from the criteria. The address to write to is:

Anne Lund
Action Against Crime and Disorder Unit
Vehicle Crime Reduction Section
Home Office, Room 515,
50 Queen Annes Gate
LONDON SW1H 9AT
Telephone: 020 7273 2285
Fax: 020 7273 2703
E-mail: anne.lund@homeoffice.gsi.gov.uk

5. LIST OF CONSULTEES

1. Association of British Insurers
2. Association of Chief Police Officers
3. Association of Chief Police Officers (Scotland)
4. Association of London Authorities
5. Automobile Association
6. British Metals Recycling Association
7. British Motorcycle Federation
8. British Vehicle Rental & Leasing Association
9. British Vehicle Salvage Federation
10. Cabinet Office - Regulatory Impact Unit
11. Chartered Institute of Environmental Health
12. Crown Prosecution Service
13. Department of Environment, Food and Rural Affairs
14. Department of Transport, London & the Regions
15. Department of Trade and Industry
16. Driver & Vehicle Licensing Authority
17. Environment Agency
18. Environmental Services Association
19. European Secure Vehicle Alliance
20. Federation of Small Businesses
21. Finance & Leasing Association
22. HPI Ltd
23. Institute of Automotive Engineer Assessors
24. Institute of Waste Management
25. International Association of Auto Theft Investigators
26. Local Government Association
27. London Boroughs Association
28. Lord Chancellor's Department
29. Motor vehicle Dismantlers Association of Great Britain
30. Motorcycle Industry Federation
31. National Criminal Intelligence Service
32. Northern Ireland Office
33. Police Service for Northern Ireland
34. Retail motor industry Federation
35. Royal Automobile Club
36. Royal Commission on Environmental Pollution
37. Scottish Executive
38. Small Business Service
39. Society Of Motor Manufacturers and Traders
40. The Law Society
41. The Motorists Forum
42. Town & Country Planning Association
43. Trading Standards Association
44. UK Environmental Law Association
45. Welsh Assembly
46. Welsh Development Agency

Annex A: Consultation criteria

Annex B: Partial RIA

Annex C: Draft Guidance and Regulations

ANNEX A - Cabinet Office Code of Practice on Written Consultation

1. The criteria in this code apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
2. Though they may have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.
3. The criteria should be reproduced in consultation documents, with an explanation of any departure, and confirmation that they have otherwise been followed.
4. Timing of consultation should be built into planning process for a policy (including legislation) or service from start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
5. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
6. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions on which it seeks views. It should make it as easy as possible for readers to respond, make contact or complain.
7. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
8. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for consultation.
9. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
10. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.
11. Further information in respect of the code of practice is available at the cabinet Office website:

www.cabinet-office.gov.uk/servicefirst/index/consultation.htm

ANNEX B - Partial Regulatory Impact Assessment

Title of proposed provision:

THE MOTOR SALVAGE OPERATORS REGULATIONS 2002

Purpose and Intended Effect of Regulation

The issue and objective:

1. **Issue:** Scrap metal dealers are currently regulated by the Scrap Metal Dealers Act 1964 (SMDA), but the motor salvage industry is not. There are between 2,500 and 3,000 motor salvage operators through which are believed to pass up to 66,000 stolen cars and up to 10,000 (of the estimated 20,000) insurance fraud cars every year.

2. **Objective:** To provide for effective regulation of the motor salvage industry under powers contained in the Vehicles (Crime) Act 2001 that will:

- i. help reduce vehicle theft by making it more difficult to dispose of stolen vehicles, and to assist the police and other authorities investigating such offences;
- ii. to improve detection rates, which would help to prevent further criminality.

3. The intention of regulation is that it would impact on the whole motor salvage industry regardless of size or turnover. The industry would in future be required to:

- register with the local authority (a registration fee to cover reasonable administration costs only will be set by the local authority);
- maintain appropriate records of purchases and disposals of vehicles;
- undertake identity checks of purchasers and vendors;
- keep records either in hard copy or electronic form for a specified number of years;

- issue Notifications of Destruction and keep records of those issued (see paragraph 14)
- allow the police right of entry and inspection without a warrant.

Risk Assessment:

4. In the context of these proposed Regulations, there is no perceived hazard, or situation that would lead to any harm or detriment to any individual or organisation. Vehicle crime causes inconvenience and disruption to the victims (economic loss estimated to be at least £3.4 billion a year) and can lead to a loss of confidence in the police service and the enforcement of the law.

5. The average economic cost (including criminal justice costs) of a single stolen motor vehicle is about £4,800. This means that the order of costs for those cars stolen for their parts or to be “rung” (having their identity switched with that of a legitimate written off car) would be about £317 million every year. Add to this the cost of the 10,000 or so insurance fraud vehicles and the total would be about £365 million.

Options

6. The Government has enacted legislation in the Vehicles (Crime) Act 2001, which regulates the motor salvage industry. It is the intention to make and implement the regulations under this Act in May 2002. The proposed regulations (see Annex B to the draft Guidance attached at Annex C to the consultation paper) will require motor salvage operators to:

- register with the local authority (Particulars of each motor salvage operator’s entry on the register and requirements for registration or renewal of registration) (Regulations 3 and 4);
- maintain appropriate records of purchases and disposals of vehicles (Regulation 5(2) & (3));
- undertake identity checks of purchasers and vendors (Regulation 5(2)(c) and 5(3)(c));
- keep records either in hard copy or electronic form for a specified number of years (Regulation 5 (4));

**Section 2 of The Act.
Particulars of each motor salvage operator's entry on the register Regulation 3 and requirements for registration or renewal of registration Regulation 4.**

7. **Option 1:** To prescribe the actual details that should be recorded on the public register to be established and maintained by a local authority and the information to be requested on the application form. The Local Government Association view is that it is desirable to achieve consistency between authorities as to the details given on the public register and requested from the applicants for registration.

8. **Option 2:** To allow each local authority discretion as to what details they would show on the public register or request from an applicant for registration. This would however lead to inconsistencies between local authorities.

**Section 7(1) of The Act.
Maintain appropriate records of purchases and disposals of vehicles. Regulation 5(2) & (3).
Undertake identity checks of purchasers and vendors. Regulation 5(2)(c) & 5(3)(c).**

9. **Option 1:** To specify the records that should be kept in order to establish an audit trail which could be followed in any police investigation into allegations of criminal activity. This reflects the record keeping requirement in the industry voluntary code of practice and provides for consistency across the industry.

10. **Option 2:** Not to specify the records to be kept. Failure to specify the records by regulation would mean that only operators that currently adhered to the industry voluntary code would be able to provide the audit trail required. This would very substantially undermine the effectiveness of the statutory regulation of the industry.

**Section 7(1) of The Act.
Keep records either in hard copy or electronic form for a specified number of years
Regulation 5(4).**

11. **Option 1:** to provide for the retention of records for a number of years so that they are available to the police for investigation into alleged criminal activity. The police would wish to ensure that records are available to them over a

period of time when it might be possible to undertake an investigation. We suggest that it would be appropriate to expect operators to keep such records for the same period of time as they keep records for tax and VAT purposes i.e. 6 years.

12. **Option 2:** to allow motor salvage operators the discretion as to how long they retain records specified under regulation. Allowing operators such discretion would create inconsistency within the industry and would hinder police investigations into alleged criminal activity.

Issues of Equity or Fairness

13. We believe that the proposed provision should impact equally across the whole industry. The likely burden on small businesses is not considered to be any more onerous, in relation to size, than it would be for larger businesses, although it is recognised that small businesses would, in the main, have less administrative capacity.

14. Section 8 of the Vehicles (Crime) Act 2001 provides a power to make regulations for the notification by registered motor salvage operators of the destruction of motor vehicles which fall outside the scope of the ELV Directive i.e. non-cars and light vans. Section 35 of the Act amends the Scrap Metal Dealers Act 1964 and provides for a similar power in respect of scrap metal dealers. The Home Office intends to implement these powers and introduce regulations at the same time as regulations are made under the ELV Directive, and will at that time take full account of the way in which the Certificate of Destruction procedure under the ELV Directive will work. No business will be required to issue both a Certificate of Destruction and a Notification of Destruction in respect of the same vehicle; and no vehicle will be issued with both a Certificate of Destruction and a Notification of Destruction. This will reduce the burdens on business by avoiding duplication.

15. The Department of Trade & Industry have recently completed consultation on their proposals for the implementation of the ELV Directive.

Benefits

16. Taken together all the first options above will provide for a consistent approach and effective regulation of the industry that will drive out the criminal element. The information on the public

register together with the records maintained by industry will provide the police with an appropriate audit trail to assist them in enforcing the law.

17. The second options above would not implement the legislation effectively as they would provide for unfair and unequal practices between operators within the industry and would fail to provide the police with adequate information to enable effective investigation.

18. Our intention is to adopt the first options as described above.

Quantifying and Valuing the Benefits

19. Taken together the first options will realise the crime reduction benefits estimated in the full regulatory impact assessment produced for the Vehicles (Crime) Bill. We now estimate these to be 33,000 fewer vehicle thefts a year. With the average cost of a vehicle theft at £4,800 this option could deliver an economic benefit of up to £158 million at present day values. Additionally, the more rigorous record keeping and identification checks could have an impact on insurance fraud through the motor salvage industry reducing such fraud by up to 25%, and resulting in 2,500 fewer cars being “reported stolen”. Assuming it is older cars that are subject to insurance fraud, costing society, on average, £2,800, the annual economic benefit would be about £7 million.

20. The second options would by contrast deliver significantly fewer crime reduction benefits than the first options taken together. We believe that these could be those estimated by the full RIA produced for the Vehicles (Crime) Bill (8,000 fewer vehicle thefts a year). With the average cost of a vehicle theft at £4,800, this option could deliver an annual economic benefit of about £38 million. But it would also create inconsistencies across the industry that in turn would hamper the police in the effective investigation of alleged criminal activity.

Compliance Costs for Business, Charities and Voluntary Organisations

Business Sectors Affected

21. These Regulations will not affect charities and voluntary organisations. The businesses affected would be those engaged in the motor

salvage, vehicle dismantling and motor repair industries that are defined in Section 2(a)-(d) of the Vehicles (Crime) Act 2001. There is no single Standard Industry Code (SIC) which identifies the sector. The relevant SICs are Metal recycling 37.10 (metallic); Metal recycling 37.20 (non-metallic); Car maintenance and repairs: 50.20; and Sale of motor vehicle parts and accessories: 50.30.

22. We estimate that there are between 2,500 and 3,000 companies in the industry sector affected by the proposed regulations, employing up to 30,000 people. The vast majority of companies would be vehicle dismantlers.

Compliance costs for a typical business

23. Regulation would have an impact in three areas, where there would be additional costs of compliance to the “smaller” end of the industry sector, who, in varying degrees, would not already have adopted all of the requirements of the Code of Practice.

24. **Registration:** There are about 3,000 companies who are likely to be required to register under this Regulation. The Local Government Association is recommending that local authorities devise their own scale of registration fees but suggest that these should be in the region of £40 -£70 per registration. The total registration cost to the industry sector should therefore be between £120,000 - £210,000 in the first year and thereafter at three yearly intervals.

25. **Record keeping and assisting the police with their enquiries:** It has been estimated that just 20% (34,000) of “end of life” vehicles are processed by the small end of the industry, which is not likely to be complying with the Code of Practice voluntarily. It is difficult to estimate the cost to this section of the industry of the requirement to keep the specified records, as the form in which they may be kept will not be specified. The full regulatory impact assessment produced for the Vehicles (Crime) Bill estimated that assisting the police with their enquiries would cost £110,000 a year. In addition we estimate that making identity checks will cost a maximum of £363,000 a year. (This assumes that the total processing time for small companies would take about 57,000 hours based on each action taking on average 10 minutes with the minimum wage of £4.10 multiplied by a factor of 1.55 to account for non-wage costs).

26. **Familiarisation:** We estimate familiarisation costs for businesses to be up to £37,000. This makes allowance for businesses not already familiar with the Code of Practice to understand the new requirements. The estimated cost of “familiarisation” is based on an average of 2 hours for up to 2,900 businesses with the minimum wage of £4.10 multiplied by a factor of 1.55 to account for non-wage costs.

Total compliance costs:

£720,000 for Year 1
 £473,000 for Years 2 and 3
 £683,000 for Year 4 (and so on)

Other Costs

Local authority costs

27. The local authority would be responsible for registering persons carrying on a business in the motor salvage industry. A registration fee to cover reasonable administration costs only would be set by the local authority. The cost to local authorities would therefore be self-financed.

Enforcement costs

28. Enforcement would be the sole responsibility of the police service. As this would form part of their routine investigations, the cost, estimated by Association of Chief Police Officers, at around £110,000 a year, would be absorbed by the police.

29. The total cost of additional prosecutions to the Crown Prosecution Service and to the Lord Chancellors Department (including legal aid) is

estimated at about £26,000 per year. There would also be costs to LCD of administering an appeal system (an appeal against a local authority’s decision to refuse or revoke a registration) which LCD estimated would be around £45,000 per year.

Publicity costs

30. The Home Office will meet the costs of centrally producing guidance including any associated publicity costs.

Results of Consultation

31. A public consultation document containing the draft Guidance and Regulations is attached to this document. The results of the consultation process will be published in a full Regulatory Impact Assessment (RIA) once comments have been received and considered.

Results of Consultation with small business: “The Litmus Test”

32. A small business litmus test will be undertaken as part of the consultation process and results will be included in a full RIA, to be published once comments have been received and considered.

33. We recommend that option 1 be adopted, as the most effective way of implementing the appropriate provisions of the Vehicles (Crime) Act 2001.

Enforcement and Sanctions

34. The Association of Chief Police Officers and the Local Government Association have

Summary and Recommendation

		Costs	Benefits
Option 1		Up to £720,000 a year	Up to 33,000 fewer vehicle thefts per year, with an economic benefit of £158 million. Plus 2,500 prevented insurance fraud “theft” claims, with an economic benefit of £7 million.
Option 2	Business	None	Up to 8,000 fewer vehicle thefts per year, with an economic benefit of £38 million.

agreed that the police service will have sole responsibility for the enforcement of the proposed Regulations.

35. The Act introduces a number of fines for non-compliance including fines of up to level 5 (i.e. not exceeding £5000). Non-compliance would also be a factor that the local authority could take into consideration when deciding whether a person(s) meets or continues to meet the “fit and proper” requirement for the purpose of registration under the proposed Regulations.

Monitoring and Evaluation

36. The Government intends to review the effectiveness of the way in which the legislation has been implemented two years after the implementation date. This review will take account of comments from key stakeholders who were consulted on the original proposals to regulate the industry. As part of this review the Government will ask the police service and local authorities to monitor and evaluate the introduction and impact of the Regulation and to report the results to the Home Office.

ANNEX C - **Draft Guidance and Regulations**

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Draft Guidance and Regulations

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PREFACE BY MINISTER OF STATE, HOME OFFICE

Section 1: **SCOPE AND STATUS OF GUIDANCE**

1.1 This document provides guidance for the police, local authorities and industry on implementing the provisions of the Vehicles (Crime) Act 2001 relating to the statutory regulation of the motor salvage industry that comes into effect in May 2002. It is issued jointly by the Home Office and the Local Government Association. It has been prepared in consultation with the Association of Chief Police Officers, the Motor Vehicle Dismantlers' Association of Great Britain, the British Vehicle Salvage Federation, the Federation of Small Businesses, and the Small Business Service.

1.2 The guidance is non-statutory (i.e. it does not have the force of law), and should not be regarded as authoritative legal advice. If there is any doubt as to the application or interpretation of the legislation, advice should be sought from a legal adviser. A draft of this guidance was made available to the consultees listed on page xx of this document and was made available to Members of Parliament together with the draft Regulations and it reflects discussion that took place in Parliament during the passage of the Act.

1.3 Limited further copies of this guidance are available [from xxxxxxxxxx], and it can be viewed on the Home Office and Local Government Association websites [www.xxxxxxxx and www.xxxxx respectively]. This guidance can be freely produced provided the source is acknowledged. It can also be viewed on the Parliament website www.xxxxxxx

Section 2: **BACKGROUND**

2.1 The provisions in the Act regulating the motor salvage industry were developed by a Task Group of the Vehicle Crime Reduction Action Team (VCRAT). This was set up in September 1998 to develop a strategy to meet the Government's 30% vehicle crime reduction target over the 5-year period ending March 2004. The Task Group comprised the police, insurance industry, the International Association of Auto Theft Investigators, the British Vehicle Salvage Federation, the Motor Vehicle Dismantlers' Association of Great Britain, and relevant Government Departments and Agencies (Home Office, Department of the Environment Transport and the Regions, Driver Vehicle and Licensing Agency and the Department of Trade and Industry).

2.2 During development of the proposals, the industry representatives consulted widely with their membership.

2.3 The need for statutory regulation stemmed from a court decision (in the case of *SUCH v. GIBBONS* (June 1980)) that the Scrap Metal Dealers Act 1964 (SMDA) did not apply to the motor salvage operators. The lack of proper regulation meant that there were many opportunities for the criminal element in the motor salvage industry to dispose of stolen vehicles.

2.4 The Task Group proposed that statutory regulation was the right way forward requiring the industry to:

- be registered;
- maintain appropriate records of purchases and disposals;
- require identification checks for vendors and purchasers; and
- allow the police the right of entry to premises and the right of search without warrant.

2.5 A public consultation document containing the Task Group's proposals was published in April 2000. This can be viewed on the Home Office website www.xxxxxxxx.

2.6 The Vehicles (Crime) Act received Royal Assent on 10 April 2001.

Section 3: **STRUCTURE AND PRINCIPLES OF PROVISIONS**

3.1 The main provisions of the Act relating to the regulation of the motor salvage industry are summarised below:

3.2 **Section 1:** Sets out a requirement on any person carrying on business as a motor salvage operator in the area of a local authority to register as such with that authority; creates an offence for failing to do so; defines who comes within the scope of the Act and therefore needs to register and explains that “registered” refers to a register established and maintained by a local authority for the purpose of the Act.

3.3 **Section 2:** Provides for local authorities to establish and maintain a register of motor salvage operators. Regulations made under this Section will prescribe the form of the register and the information to be kept in it. It also sets the period of registration and requires local authorities to provide for members of the public to inspect the register for a fee to be determined by the local authority and to provide certified copies of entries on the register for a fee to be determined by the local authority.

3.4 **Section 3:** Covers applications for registration and renewal. Regulations under this Section will prescribe the information to be provided to the Local Authority for the purpose of registration or renewal and provides for the Local Authority to set a fee for the purpose of registration or renewal. It establishes a “fit and proper” test to be applied by the local authority when considering an application for registration or renewal.

3.5 **Section 4:** Sets out the circumstances under which a local authority may cancel a registration.

3.6 **Section 5:** Provides a right for motor salvage operators to make representations to the local authority when an application for registration or renewal has been refused or when a registration has been cancelled.

3.7 **Section 6:** Provides a right for motor salvage operators to make an appeal to a

magistrates’ court when a local authority has maintained its decision to refuse an application for registration or renewal or to cancel a registration in the light of representations made under Section 5.

3.8 **Section 7:** Provides for Regulations to be made specifying the records to be kept by a registered person and creates an offence for failing to keep the specified records.

3.9 **Section 8:** Provides for Regulations to be made requiring registered persons to issue notifications of destruction of motor vehicles and creates an offence for failing to do so.

3.10 **Section 9:** Deals with the rights of the police services to enter and inspect premises and to require the production of or inspect any motor vehicle or parts kept on the premises or to require the production or inspection of or to take copies of any records which the motor salvage operator is obliged to keep by virtue of the Act.

3.11 **Section 10:** Creates an offence of making false statements in connection with an application for registration.

3.12 **Section 11:** Sets out requirements for registered persons to notify the local authority with regard to changes affecting the accuracy of information supplied in connection with an application; changes affecting an entry on a register and when a motor salvage operator ceases to operate as such. It creates an offence for failing to make such notifications.

3.13 **Section 12:** Creates an offence of giving false particulars on sale for salvage.

Section 4: **REGISTRATION**

THE REGISTER

4.1 Section 1 of the Act places a requirement on all persons carrying on a business as a motor salvage operator to register with the local authority in whose area their registered place of business is located. This section creates an offence of failing to register. Any person who fails to register with their local authority will be guilty of an offence and will be liable, on summary conviction, to a fine not exceeding level 5 (i.e. not exceeding £5,000) on the standard scale.

4.2 The Act (Section 2(1)) requires every local authority to establish and maintain a register of persons carrying on a business as a motor salvage operator (as defined in Section 1(2) of the Act). A local authority for the purpose of the Act is defined in Section 16(3) as a unitary authority or a district council (so far as they are not a unitary authority) in England, and a county council or a county borough council in Wales. Local authorities are required to keep the register (Section 2(2) of the Act). We have not prescribed the format in which the register is to be kept leaving this to the discretion of the local authority.

DETAILS TO BE KEPT ON THE REGISTER

4.3 Local authorities are required to keep the following details on the register in relation to each registration (Section 2(3) of the Act and Regulation No. 3):

- The full name of the motor salvage operator, the names of all the directors if the business is undertaken by a body corporate, or the names of all the partners if the business is undertaken by a partnership.
- The address -
 - (i) if the operator is an individual, of his usual place of residence;
 - (ii) if the operator is a partnership, of each partners usual place of residence;

- (iii) if the operator is a body corporate of its registered or principal office; and
- (iv) the address of each place in the administrative area of the local authority which is occupied by the motor salvage operator wholly, mainly or partly for the purpose of carrying on a business as defined in Section 1(2) of the Act.

PERIOD OF REGISTRATION

4.4 Each registration will be valid for a period of three years from the date on which the entry was made in the Register (Section 2(4) of the Act). A person will be deemed to have ceased to be registered if they have not made an application for renewal of registration before the expiry date of their existing registration. If an application for renewal has been made prior to the expiry of the existing date of registration and the local authority have not completed registration by the date of expiry, the registration of that person will continue until such time as the application process has been completed, including any appeal under Section 6 of the Act. If that application is determined in favour of the applicant the registration will be deemed to have taken effect from the day immediately following the date of expiry of the earlier registration (Sections 2(4) (5) (6) of the Act refer).

PUBLIC ACCESS TO THE REGISTER

4.5 The local authority must ensure that the contents of the register are available for inspection by members of the public at any reasonable time. The local authority may charge a reasonable fee for this service. Should a member of the public request a copy of an entry on the register this may be provided and should be certified by the authority as a true copy. The local authority may charge a reasonable fee for this service (see Section 5 on Local Authority Fees on pages 11-12).

4.6 The only information that will appear on the register available to members of the public will be:

- The full name of the motor salvage operator, the names of all the directors if the business is undertaken by a body corporate, or the names of all the partners if the business is undertaken by a partnership.
- The address -
 - (i) if the operator is an individual, of his usual place of residence;
 - (ii) if the operator is a partnership, of each partners usual place of residence;
 - (iii) if the operator is a body corporate of its registered or principal office; and
 - (iv) the address of each place in the administrative area of the local authority which is occupied by the motor salvage operator wholly, mainly or partly for the purpose of carrying on a business as defined in Section 1(2) of the Act.

APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION

4.7 An applicant for registration or renewal of registration will be required to complete an application form available from the local authority. The appropriate fee must accompany the completed application form for registration determined by the local authority (see Section 5 on Local Authority Fees on pages 11-12).

4.8 Regulation 4 specifies the information required by the local authority in order to determine such an application. Local authorities will need therefore to ensure that:

The application form will request the following information:

- the full name of the applicant or the names of all the directors or partners if the applicant business is undertaken by a body corporate or a partnership;
- the address of the usual place of residence of each applicant or director or partner of the applicant business;
- the address of each place in the administrative area of the local authority which is occupied by the motor salvage

operator wholly, mainly or partly for the purpose of carrying on a business as defined in Section 1(2) of the Act;

- whether this is an initial application or an application for renewal of registration;
- whether any previous application for registration has been refused and if so by which Local Authority and the reasons for refusal;
- unspent convictions under Part I of the Vehicles (Crime) Act 2001;
- unspent convictions for any of the following offences -
 - (i) theft or attempted theft of or from a motor vehicle, contrary to Section 1 of the Theft Act 1968;
 - (ii) taking a motor vehicle without consent, contrary to Section 12 of the Theft Act 1968;
 - (iii) aggravated vehicle taking, contrary to Section 12A of the Theft Act 1968;
 - (iv) handling stolen goods, contrary to Section 22 of the Theft Act 1968;
 - (v) going equipped to steal or take a motor vehicle, contrary to Section 25 of the Theft Act 1968;
 - (vi) interference with a motor vehicle, contrary to Section 9 of the Criminal Attempts Act 1981;
 - (vii) tampering with a motor vehicle, contrary to Section 25 of the Road Traffic Act 1988.
- undischarged bankruptcy of the applicant or any directors or partners of the applicant business.

The application form should also state:

- the fee that the local authority has decided to charge in exercise of its powers under Section 3(2) of the Act.
- that under Section 2(4) of the Act, registration expires after three years and a newly completed application form will need to be submitted to the local authority, two months prior to the expiry of the current registration, together with the required fee.
- that completed application forms will be submitted to the local police for comment prior to the registration process being completed.

LOCAL AUTHORITY CONSIDERATION OF APPLICATIONS

4.9 In order for a local authority to consider registration all sections on the application form must be completed and the appropriate registration fee must accompany the form.

4.10 Local authorities shall work on the basis that an applicant should be registered unless the application form is incomplete, the appropriate fee has not been paid or they are not satisfied that the applicant is a “fit and proper” person to carry on the business of a motor salvage operator.

4.11 In considering whether an applicant is a “fit and proper” person the local authority should take into account the information provided on the application form in relation to:

- unspent convictions under Part I of the Vehicles (Crime) Act 2001;
- unspent convictions as specified (see paragraph 4.8 above);
- details of any undischarged bankruptcy;
- information provided by the police (which must be disclosable to the applicant and in a court of law).

4.12 The local authority may, on the basis of the information available to them, propose to refuse a registration if they are not satisfied that the applicant is a “fit and proper” person. The expectation being that anyone declaring any of the above will be refused registration. In reaching their decision the local authority will take into account the information provided on the application form together with any information provided by the police. Any such information must be disclosable to an applicant and in a court of law. However, before refusing a registration they must give the applicant opportunity to make representations (see paragraphs 4.23 - 4.25 on representations).

4.13 Following the successful registration of an application the local authority will issue a letter of confirmation that will indicate the date of expiry of the registration and the need to apply for renewal of registration two months before that date.

REQUIREMENT ON MOTOR SALVAGE OPERATORS TO NOTIFY THE LOCAL AUTHORITY OF CHANGES

4.14 The Act (Section 11) places a requirement on a registered motor salvage operator to notify the local authority of any changes affecting the information provided in their application for registration. The registered person must give such information to the local authority within 28 days of the changes occurring.

4.15 A motor salvage operator who ceases to operate as such must inform the local authority with whom they are registered within 28 days of the date on which they ceased their operation.

4.16 Failure to comply with these requirements will be an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000). In any proceedings brought under Section 11 of the Act it will be sufficient defence for the accused to show that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

OFFENCE OF MAKING FALSE STATEMENTS

4.17 Any applicant for registration or renewal of registration who knowingly or recklessly makes a false statement or provides false information on their application form for registration will be guilty of this offence and will be liable on summary conviction to a fine not exceeding level 3 on the standard scale. (i.e. not exceeding £1,000) (Section 10(1) of the Act).

4.18 Any person who is guilty of this offence and who has had a previous application for registration or renewal refused or has had a previous registration cancelled will be liable on summary conviction to a fine not exceeding level 5 on the standard scale (i.e. not exceeding £5,000) (Section 10(2) of the Act).

CANCELLATION OF REGISTRATION

4.19 A local authority may, having made a registration, cancel it at any time if they are satisfied that the person registered is no longer a “fit and proper” person to carry on a business as a motor salvage operator.

4.20 They may also take into account any intelligence provided by the police providing that it is information that is disclosable to the person registered and in a court of law.

4.21 A local authority may also cancel a registration if they are satisfied that the person registered is no longer carrying on a business as a motor salvage operator and has not been doing so for a period of at least 28 days.

4.22 Representations and appeals can be made against cancellation of registration (See paragraphs 4.23 - 4.25 on representations and paragraphs 4.26 - 4.27 on appeals).

REPRESENTATIONS

4.23 A local authority (under Section 5 of the Act) may not refuse to register an applicant, renew registration or cancel a registration unless it has complied with sections 5(2)-(8) of the Act. This section requires the local authority to:

- Serve notice on the applicant stating;
- what they are proposing to do
- the reasons for doing it
- the period within which the applicant can, by notice, (being not less than 14 days from the date the notice was served) require the local authority to give the applicant the opportunity to make representations about the proposal or to inform them that they do not wish to make any such representations.

4.24 Once a local authority has served notice on the person registered of its proposal to refuse registration or cancel registration it may not proceed to do so:

- until such time as the applicant/refusee has made representations or informed them that no representations will be made; or
- a period of 14 days has elapsed without the local authority being required by the applicant or person registered to give them the opportunity to make representations or without them being informed that no representations will be forthcoming.

4.25 Representations may be made orally or in writing. If the applicant/person registered desires to make oral representations the local authority will arrange for them to appear before a person appointed for that purpose by the local authority.

If the local authority decide to proceed with refusal or cancellation they must serve a notice on the person concerned informing them of their decision. Such a notice will also inform the person of:

- their right to appeal against refusal or cancellation (Section 6 of the Act - see paragraphs 4.26 - 4.27),
- the time within which an appeal may be made and,
- in the case of cancellation the date on which the cancellation comes into force.

APPEALS

4.26 Section 6 of the Act allows for appeals to be made against a local authority's decision to refuse registration, refuse renewal of registration and cancellation of registration. An appeal must be made by the applicant within 21 days beginning on the date that the local authority served notice of its intention to refuse registration, refuse renewal of registration and cancellation of registration.

4.27 The procedure for making an appeal is by way of a complaint for an order in the Magistrates' Court in accordance with the Magistrates' Courts Act 1980 (c.43). A Magistrates' Court may confirm, vary or reverse the local authority's decision and may give directions, as it considers appropriate. The local authority is required to comply with any directions given by the Magistrates' Court but need not do so until:

- time for making an application under section 111 of the Magistrates' Courts Act 1980 (application by way of case stated) has passed, or
- if such an application has been made, until the final determination or withdrawal of the application.

RE-REGISTRATION FOLLOWING REFUSAL OF REGISTRATION OR RENEWAL OF REGISTRATION OR CANCELLATION OF REGISTRATION

4.28 A local authority may refuse to consider a further application for registration or renewal from an applicant whom they have refused as not being a "fit and proper" person, for a period of three years from the date of that refusal. Likewise a local authority may refuse to consider a further

application for registration for a period of three years following their decision to cancel a registration on the basis of the person no longer being “fit and proper”. The period of three years will count from the date of cancellation. Sections 3(5)(6) and 4(5) of the Act refer.

4.29 A person refused registration or whose registration has been cancelled for any other reasons than not being “fit and proper” may make a fresh application for registration at any time.

4.30 A person whose registration lapses (when it is not renewed on expiry) and who does not continue to carry on a business as a motor salvage operator (as defined in Section 1(2) of the Act) may, if at a date in the future, they re-start that business, make a new application for registration.

Section 5: LOCAL AUTHORITY FEES

FEE FOR REGISTRATION OR RENEWAL OF REGISTRATION

5.1 The authority is permitted to levy a 'reasonable' fee for the operation of the scheme, to be collected from those seeking registration. 'Reasonable' has been defined in the context of other licensing/registration regimes as meaning cost recovery only. Authorities only have an administrative duty under the Act. A significant surplus should **not** be made in carrying out this statutory duty; an excessive surplus would be subject to scrutiny by the District Auditor.

5.2 The Local Government Association (LGA), in consultation with the Home Office, has developed a set of model fees that are viewed as representing the fee levels that are deemed to be reasonable given the following the assumptions:

- a) the LA duty should be straightforward to fulfil, and generally should be delegated to officers at an appropriate level
- b) the number of businesses involved nationally is only around 3,500 (an average of less than 10 per LA)

- c) total administration time for 90% of applications should be in the order of 1.5 hours per application

5.3 In calculating the hourly figures above all employee and associated on-costs have been included. The base data is taken from information supplied by a sample of local authorities. The percentage additional on-costs are 22% for NI and employment costs; 25% for LA central charges including legal services, financial services etc.

5.4 An additional amount (15%) has been added to the hourly rate to accommodate the few occasions where registration may need to be cancelled and any other unforeseen administration. In addition, authorities may vary the fees, up or down, by a maximum of 10% to allow any special local circumstances to be accommodated.

5.5 Authorities are advised to devise their own scale of fees based on the basic data given below. The LGA considers that the majority of authorities would be setting fees in the order of £40 - £70 per application.

	Hourly Rate (inc. employment costs, other costs and a percentage adjustment for unforeseen costs)
Admin Officer	£25
Enforcement Officer	£32
Environmental Health Officer	£40
Principal EHO	£45
Head of Service	£75

FEEES FOR PUBLIC ACCESS TO THE REGISTER AND FOR CERTIFIED COPIES OF ENTRIES ON THE REGISTER

5.6 It is anticipated that requests for access to the public register of registered operators would be minimal, and therefore, local authorities may wish to consider not making any charge for this service. However, the Act provides for them to do so if they so wish.

5.7 If a certified copy of a single register entry is required, a charge of 20 pence per copy may be levied, up to a maximum of 5 copies. If more than 5 copies of a single entry are required or more than 5 single copies of more than one registration document is required, an appropriate fee may be levied to cover reasonable costs.

5.8 Access to the register may only be demanded during normal office opening hours.

Section 6: **KEEPING OF RECORDS**

6.1 Records to be kept by the motor salvage operator are specified in Regulations made under Section 7 of the Act. Regulation No 6.

On receipt of a vehicle

6.2 The motor salvage operator must, on receipt of a vehicle, make and keep the following records either in a manual register, record book or electronically:

- Details of the vehicle, including Vehicle Registration Mark (VRM), Vehicle Identification Number (VIN), make, model and colour;
- The name, address and contact details of the supplier of the vehicle;
- Details of proof of identity of the vehicle supplier. (Guidance on the type of identification to be provided will be completed following this consultation exercise).

However, in cases of vehicles collected by the operator and where ID of the person legally responsible for disposing of the vehicle is not available at the point of collection or it cannot be obtained from the collection source, the operator must record the fact as well as the details of the place/person the vehicle was collected from. In cases where a vehicle is left (abandoned) at the operators premises without the vendor providing evidence of identification it should be treated as an abandoned vehicle and reported to the police and the local authority.

On selling or disposal of any vehicle, the motor salvage operator shall add the following information against the relevant vehicle entry:

- Date of sale or disposal;
- Name, address and contact details of the purchaser or recipient;
- Details of proof of identity of the vehicle supplier. (Guidance on the type of identification to be provided will be

completed following this consultation exercise);

- Condition of the vehicle at the time of sale or disposal (Repaired, unrepaired, condition as at purchase, dismantled, etc.).

6.3 The records must be held at the registered place of business.

6.4 The records of vehicles received and disposed of, as set out in paragraph 6.2 above and specified in the Regulations, are to be kept for a period of 6 years after the date of the last entry. (Regulation No 6.4).

6.5 Failure to keep the records specified in the Regulations to the Act (paragraphs 6.1 - 6.4 above) will be an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (i.e. not exceeding £2,500). Section 7.4 of the Act and Regulation No 6.5.

6.6 Any person who, when selling a motor vehicle to a motor salvage operator, in the course of their business, gives a false name or address will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000) (Section 12 of the Act).

Section 7: **NOTIFICATION OF DESTRUCTION OF MOTOR VEHICLES**

VEHICLES OUTSIDE THE SCOPE OF THE ELV DIRECTIVE

7.1 Section 8 of the Vehicles (Crime) Act 2001 provides a power to make regulations for the notification by registered motor salvage operators of the destruction of motor vehicles which fall outside the scope of the ELV Directive i.e. non-cars and light vans. Section 35 of the Act amends the Scrap Metal Dealers Act 1964 and provides for a similar power in respect of scrap metal dealers. The Home Office intends to implement these powers and introduce regulations at the same time as the regulations are made under the ELV Directive, and will at that time take full account of the way in which the Certificate of Destruction procedure under the ELV Directive will work. This will reduce the burdens on business by avoiding duplication.

7.2 The Department of Trade & Industry have recently completed consultation on their proposals for the implementation of the ELV Directive.

Section 8: **POLICE RIGHT OF ACCESS TO INSPECT RECORDS AND PREMISES**

8.1 The Act (Section 9) gives the police the right of entry, without a warrant, at any reasonable time to inspect the premises of a motor salvage operator registered by a local authority. The police may at any reasonable time:

- require production of, and inspect, any motor vehicles or salvageable parts kept on the registered premises;
- require production of, inspect, and take copies of or extracts from any records that the person registered is required to keep.

8.2 The police must, if required by the person in charge of the premises at that time, produce evidence of their identity, and their authority for entering before entering the premises. The police are not permitted to use force to enter registered premises for the purposes described at paragraph 8.1 above.

8.3 The police may, if they suspect a premises is being used to carry on a business as a motor salvage operator without having be registered under the Act may apply to a Justice of the Peace for a warrant to enter and inspect those premises.

8.4 The police may, use reasonable force to gain entry and exercise their powers under warrant as described at paragraph 8.2 above.

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ANNEX A - Vehicles Crime Act 2001 Part 1, Sections 1 - 16

1 Requirement of registration for motor salvage operators

- (1) Any person who carries on business as a motor salvage operator in the area of a local authority without being registered for that area by the authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) For the purposes of this Part a person carries on business as a motor salvage operator if he carries on a business which consists -
 - (a) wholly or partly in the recovery for re-use or sale of salvageable parts from motor vehicles and the subsequent sale or other disposal for scrap of the remainder of the vehicles concerned;
 - (b) wholly or mainly in the purchase of written-off vehicles and their subsequent repair and re-sale;
 - (c) wholly or mainly in the sale or purchase of motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b); or
 - (d) wholly or mainly in activities falling within paragraphs (b) and (c).
- (3) In this Part "registered" means registered in accordance with the provisions of this Part in a register established and maintained by a local authority under section 2; and cognate expressions shall be construed accordingly.

2 Registers of motor salvage operators

- (1) Every local authority shall establish and maintain a register for their area of persons carrying on business as motor salvage operators in that area.
- (2) The register shall, subject to any requirements that may be prescribed, be in

such form as the local authority consider appropriate.

- (3) Each person's entry in the register shall contain such particulars as may be prescribed.
- (4) A person shall cease to be registered in the register at the end of the period of three years in the beginning with the relevant day unless his registration is renewed before the end of that period in accordance with section 3.
- (5) Where, at the end of the period of three years beginning with the relevant day, an application for renewal of registration has been made under section 3 but has not been withdrawn or finally determined, the registration of the person concerned shall be deemed to continue until the withdrawal or final determination of the application.
- (6) If the application is finally determined in favour of the applicant, the renewal shall be deemed to have had effect from the end of the period of three years beginning with the relevant day.
- (7) In subsections (4) to (6) "the relevant day" means the day on which the person was registered or (if the registration has previously been renewed) the day from which it was last so renewed.
- (8) For the purposes of subsections (5) and (6) an application shall be taken to be finally determined -
 - (a) in the case of the grant of a renewal of registration, when the grant is made;
 - (b) in the case of a refusal to grant a renewal of registration, when no appeal under section 6 is possible in relation to the refusal or any such appeal has been finally determined or withdrawn.

- (9) The local authority shall secure that the contents of the register are available for inspection by members of the public at all reasonable times subject to such reasonable fees (if any) as the local authority may determine.
- (10) if requested by any person to do so and subject to such reasonable fee (if any) as the local authority may determine, the local authority shall supply the person concerned with a copy (certified to be true) of the register or of an extract from it.
- (11) Any such certified copy shall be evidence of the matters mentioned in it.

3 Applications for registration and renewal of registration

- (1) An application for registration in a register for a particular area or for the renewal of such a registration -
 - (a) shall be made to the local authority concerned in accordance with such requirements as may be prescribed; and
 - (b) shall be accompanied by a fee of such amount (if any) as the local authority may determine.
- (2) A local authority may set the level of fees to be charged in respect of applications -
 - (a) with a view to recovering the reasonable costs incurred by them in connection with the administration of this Part; and
 - (b) so that different fees are payable in different circumstances.
- (3) A local authority shall, on receiving an application under subsection (1) in register, or (as the case may be) renew the registration of, the applicant in that register unless they are satisfied that he is not a fit and proper person to carry on business as a motor salvage operator.
- (4) In deciding whether they are so satisfied, the local authority shall, in particular, have regard to -
 - (a) whether the applicant has been convicted of any offences under this Part; and

- (b) whether the applicant has been convicted of any offences of a description specified by the Secretary of State by order.
- (5) Where a local authority have refused to register a person in the register for their area under subsection (3), they may refuse to consider any application for registration made by that person during the period of three years beginning with the day on which the refusal was first given.
- (6) Where a local authority have refused to renew a person's registration in the register for their area under subsection (3), they may refuse to consider any application for registration made by that person during the period of three years beginning with the day on which the refusal became final.
- (7) This section is subject to section 5.

4 Cancellation of registration

- (1) A local authority may cancel a person's registration in the register for their area if they are satisfied that he is not a fit and proper person to carry on business as a motor salvage operator.
- (2) in deciding whether they are so satisfied, the local authority shall, in particular, have regard to the matters to which, by virtue of section 3(4), they shall have regard on an application for registration or renewal of registration.
- (3) A local authority may cancel a person's registration in the register for their area if they are satisfied that he is not carrying on business as a motor salvage operator in that area and has not, while registered, been doing so for at least 28 days.
- (4) A cancellation under this section shall not have effect -
 - (a) if no appeal is brought under section 6, before the end of the period of 21 days mentioned in subsection (2) of that section;
 - (b) if an appeal is brought under that section, before the final determination or withdrawal of the appeal.

- (5) Where a local authority have cancelled a person's registration in the register for their area under subsection (1), they may refuse to consider any application for registration made by that person during the period of three years beginning with the day on which the cancellation had affect.
- (6) this section is subject to section 5.

5 Right to make representations

- (1) A local authority shall not -
 - (a) refuse to register a person who made an application under section 3(1) for registration in the register for their area;
 - (b) refuse to renew the registration of a person who made an application under section 3(1) for renewal of registration in the register for their area; or
 - (c) cancel a person's registration in the register for their area; unless they have complied with the provisions if this section.
- (2) The local authority shall serve a notice on the person concerned stating -
 - (a) what they are proposing to do;
 - (b) the reasons for it; and
 - (c) the period (not less than 14 days starting with the date of service of the notice) within which the person concerned may be notice -
 - (i) require them to give him an opportunity to make representations about the proposal; or
 - (ii) inform them that he does not wish to make any such representations.
- (3) Where a notice has been served by the local authority under subsection (2), the local authority shall not proceed with their proposed refusal or (as the case may be) cancellation until -
 - (a) the person concerned has made representations about it or informed them that he does not wish to make any such representations;
 - (b) the period mentioned in subsection (2)(c) has passed without the local authority being required to give the person concerned an opportunity to

make representations or without them being informed that he does not wish to make any representations; or

- (c) the conditions specified in subsection (4) are satisfied.

- (4) The conditions are that -
 - (a) the person concerned has required the local authority to give him an opportunity to make representations to them about the proposal;
 - (b) the local authority have allowed him a reasonable period to make his representations; and
 - (c) he has failed to make them within that period.
- (5) The representations may be made orally or in writing.
- (6) If the person concerned informs the local authority that he desires to make oral representations, the local authority shall give him an opportunity of appearing before, and being heard by, a person appointed by the local authority.
- (7) If the local authority decide to proceed with their proposed refusal or (as the case may be) cancellation, they shall serve a notice on the person concerned informing him of their decision to proceed and of the refusal or cancellation.
- (8) A notice under subsection (7) shall also inform the person concerned of -
 - (a) his right to appeal under section 6 against the refusal or cancellation;
 - (b) the time within which such an appeal may be brought; and
 - (c) in the case of a cancellation, the date on which the cancellation is to have effect.

6 Appeals

- (1) An appeal against -
 - (a) a refusal by a local authority to register in the register for their area a person who has made an application under section 3(1);
 - (b) a refusal by a local authority to renew the registration in the register for their area of a person who has made an application under section 3(1); or

- (c) the cancellation by a local authority of a person's registration in the register for their area; may be brought to a magistrates' court.
- (2) An appeal under this section shall be brought within the period of 21 days beginning with the day on which the person concerned is served with a notice under section 5(7).
- (3) The procedure on an appeal under this section shall be by way of complaint for an order and in accordance with the Magistrates' Courts Act 1980 (c.43).
- (4) For the purposes of the time limit for bringing an appeal under this section the making of the complaint shall be treated as the bringing of the appeal.
- (5) On an appeal under this section, the magistrates' court concerned may confirm, vary or reverse the local authority's decision and generally give such directions as it considers appropriate having regard to the provisions of this Part.
- (6) It shall be the duty of the local authority to comply with any directions given by a magistrates' court under subsection (5); but the authority need not comply with any directions given by the court -
 - (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 final determination or withdrawal of the application.

Keeping of records etc.

7 Keeping of records

- (1) The Secretary of State may by regulations provide for the keeping of records by registered persons.
- (2) In subsection (1) "registered" includes formerly registered.
- (3) Regulations under this section may specify provisions of the regulations as provisions to which subsection (4) applies.

- (4) A person who contravenes any provisions to which this subsection applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

8 Notification of destruction of motor vehicles

- (1) The Secretary of State may by regulations provide for the notification by registered persons of the destruction of motor vehicles.
- (2) Regulations under this section may specify provisions of the regulations as provisions to which subsection (3) applies.
- (3) A person who contravenes any provision to which this subsection applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Supplementary provisions and offences

9 Rights to enter and inspect premises

- (1) A constable may at any reasonable time enter and inspect premises for the time being entered in the register of a local authority as premises which are -
 - (a) occupied as a motor salvage yard by a person carrying on business as a motor salvage operator; or
 - (b) occupied by a person carrying on business as a motor salvage operator wholly or partly for the purposes of his business so far as it consists of any of the activities mentioned in section 1(2).
- (2) A constable may at any reasonable time -
 - (a) require production of, and inspect, any motor vehicles or salvageable parts kept at premises falling within subsection (1); and
 - (b) require production of, inspect and take copies of or extracts from any records which the person carrying on business as a motor salvage operator is required to keep at such premises by virtue of this Part.
- (3) Subsection (4) applies where, on an application made by a constable, a justice of

the peace is satisfied that admission to premises specified in the application is reasonably required in order to secure compliance with the provisions of this part, or to ascertain whether those provisions are being complied with.

- (4) The justice may issue a warrant authorising a constable to enter and inspect the premises concerned.
- (5) A constable -
 - (a) shall not be entitled to use force to enter premises in the exercise of his powers under subsection (1); but
 - (b) may if necessary use reasonable force in the exercise of his powers under a warrant issued under subsection (4).
- (6) A constable, in seeking to enter any premises in the exercise of his powers under subsection (1), shall, if required by or on behalf of the owner or occupier or person in charge of the premises, produce evidence of his identity, and of his authority for entering, before doing so.

10 Offence of making false statements

- (1) A person who, in making an application to be registered in the register of a local authority or to renew his registration in such a register -
 - (a) makes a statement which he knows to be false in a material particular; or
 - (b) recklessly makes a statement which is false in a material particular;shall be guilty of an offence and, subject to subsection (2), liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale if -
 - (a) any previous application of his to the local authority concerned for registration or renewal of registration was refused under section 3(3); or
 - (b) any previous registration of his in the register of the local authority concerned was cancelled under section 4(1).

11 Notification requirements

- (1) A person applying to be registered in the register of a local authority or to renew his registration in such a register shall give notice to the local authority of any changes affecting in a material particular the accuracy of the information which he has provided in connection with the application.
- (2) A person who is registered in the register of a local authority shall give notice to the local authority of any changes affecting his entry in the register within 28 days of the change occurring; and the local authority shall amend the register accordingly.
- (3) A person who is registered in the register of a local authority and is not carrying on business as a motor salvage operator in the area of the local authority shall give notice to the local authority concerned of that fact within 28 days of the beginning of the period in which he is not carrying on business in that area while registered.
- (4) A person who fails to give notice to a local authority in accordance with subsection (1), (2) or (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) In proceedings for an offence under subsection (4) it shall be a defence for the accused to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

12 Offence of giving false particulars on sale for salvage

Any person who, on selling a motor vehicle to a person who is in the course of carrying on business as a motor salvage operator so far as it consists of any of the activities mentioned in section 1(2), gives that person a false name or address shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

General

13 Application of “fit and proper” test to companies etc.

- (1) For the purposes of section 3(3) or 4(1) a local authority shall be satisfied that a company is not a fit and proper person to carry on business as a motor salvage operator if they are satisfied that any director of the company is not a fit and proper person to carry on such a business; and section 3(4) and 4(2) shall be construed accordingly.
- (2) For the purposes of section 3(3) or 4(1) a local authority shall be satisfied that a limited liability partnership is not a fit and proper person to carry on business as a motor salvage operator if they are satisfied that any member of the partnership is not a fit and proper person to carry on such a business; and section 3(4) and 4(2) shall be construed accordingly.

14 Proceedings for offences under part 1

Proceedings for an offence under this Part shall not be instituted except -

- (a) by a local authority or a constable; or
- (b) in any other case, with the consent of the Attorney General.

15 Power to amend or repeal private or local Acts

- (1) The Secretary of State may by order amend or repeal any provision of a private or local Act passed before or in the same session as this Act, if it appears to him necessary or expedient to do so in consequence of this Part.
- (2) Before exercising his power under subsection (1) in relation to any Act which concerns the area of a local authority or county council, the Secretary of State shall consult the local authority or county council concerned.

16 Interpretation of Part 1

- (1) In this Part, unless the context otherwise requires -
 - “carrying on business as a motor salvage operator” has the meaning given by section 1(2);
 - “contravene”, in relation to any provision of regulations, includes fail to comply with it;
 - “motor salvage yard” means any premises where any motor vehicles are received or kept in the course of the carrying on of business as a motor salvage operator so far as the business consists of any activities mentioned in section 1(2) (excluding any premises where only salvageable parts of motor vehicles are so received or kept);
 - “motor vehicle” means any vehicle whose function is or was to be used on roads as a mechanically propelled vehicle;
 - “Notice” means notice in writing;
 - “premises” includes any land or other place (whether or not enclosed);
 - “prescribed” means prescribed by regulations made by the Secretary of State”;
 - “a register” means a register established and maintained under section 2;
 - “registered” (and cognate expressions) have the meaning given by section 1(3);
 - “road” means any highway and any other road to which the public has access; and
 - “written-off motor vehicle” means a motor vehicle which is in need of substantial repair but in relation to which a decision has been made not to carry out the repairs.
- (2) The reference in section 5(5) to representations being made in writing includes a reference to representations being made in a text which -
 - (a) is transmitted by means of a telecommunications system (within the meaning of the Telecommunications Act 1984 (c.12)) or by other means but while in an electronic form;
 - (b) is received in legible form; and
 - (c) is capable of being used for subsequent reference.
- (3) In this part ‘local authority’ means -
 - (a) in relation to England -
 - (i) a unitary authority;
 - (ii) a district council so far as they are not a unitary authority;
 - (b) in relation to Wales, a county council or a county borough council.

- (4) In subsection (3) “unitary authority” means -
- (a) the council of a county so far as they are the council for an area for which there are no district councils;
 - (b) the council of any district comprised in an area for which there is no county council;
 - (c) a London borough council;
 - (d) the Common Council of the City of London in its capacity as a local authority;
 - (e) the Council of the Isles of Scilly.
- (5) For the purposes of this Part a person carrying on business as a motor salvage operator shall be treated as carrying on that business in the area of a local authority if, but only if -
- (a) premises in that area are occupied by him as a motor salvage yard;
 - (b) no premises are occupied by him as a motor salvage yard (whether in that area or elsewhere) but he has his usual place of residence in that area; or
 - (c) no premises are occupied by him as a motor salvage yard (whether in that area or elsewhere) but premises in that area are occupied by him wholly or partly for the purposes of that business so far as it consists of any of the activities mentioned in section 1(2).
- (6) Subsection (5) shall have effect, in relation to any person who carries on business as a motor salvage operator in partnership with another person, as if any reference to the occupation of a place (whether as a motor salvage yard or otherwise) by a person were a reference to the occupation of that place for the purposes of the partnership by that person, alone or jointly with a member of the partnership, or by another member of the partnership alone.
- (7) References in this Part to offences under this Part include references to anything which is an offence by virtue of section 7(3) and (4) or 8(2) and (3).
- (8) References in this Part to an appeal under section 6 being finally determined or withdrawn include references to the final determination or withdrawal of proceedings by way of case stated which relate to a decision by a magistrates’ court on an appeal under that section.

ANNEX B - Draft - The Motor Salvage Operators Regulations 2002

The Secretary of State, in exercise of the powers conferred upon him by Section 2(2), 2(3), 3(1), 3(4), 7(1) and 7(3) of the Vehicles (Crime) Act 2001^(a), hereby makes the following Regulations:

Citation, commencement and extent

1 These Regulations, which extend to England and Wales, may be cited as the Motor Salvage Operators Regulations 2001 and shall come into force on

Interpretation

2. In these Regulations -

“the 2001 Act” means the Vehicles (Crime) Act 2001;

“partnership” is to have the same meaning as in section 1(1) of the Partnership Act 1890^(b);

“undischarged bankrupt” has the same meaning as in Section 279 of the Insolvency Act 1986^(c);

Particulars of each motor salvage operator's entry on the Register

3. For the purposes of Section 2(3) of the 2001 Act, the prescribed particulars of each motor salvage operator's entry in the register are -

(a) the full name of the motor salvage operator, the names of all the directors if the business is undertaken by a body corporate, or the names of all the partners if the business is undertaken by a partnership;

(b) the address -

(i) if the operator is an individual of his usual place of residence;

(ii) if the operator is a partnership of each partner's usual place of residence;

(iii) if the operator is a body corporate of its registered or principal office; and

(iv) the address of each place in the administrative area of the local authority which is occupied by the motor salvage operator wholly, mainly or partly for the purpose of carrying on a business as defined in Section 1(2) of the 2001 Act.

Requirements for registration or renewal of registration

4. (1) For the purposes of Section 3(1) of the 2001 Act, an application for registration in a register for a particular local authority or an application for the renewal of such registration must contain the following information:

(a) the full name of the applicant or the names of all the directors or partners if the applicant business is undertaken by a body corporate or a partnership;

(b) the address of the usual place of residence of each applicant or director or partner of the applicant business;

(c) the address of each place in the administrative area of the local authority which is occupied by the applicant wholly, mainly or partly for the purpose of carrying on a business as defined by Section 1(2) of the 2001 Act;

(d) whether it is an initial application to register or an application for renewal of registration;

(e) whether any previous applications for registration have been refused and, if so, by which local authority, and for what reasons;

(a) 2001 c.3

(b) 1890 53+54 Vict. C.39.

(c) 1986 c.45

- (f) unspent convictions for offences under Part 1 of the 2001 Act;
- (g) unspent convictions for any of the following offences -
 - (iii) that once an applicant has submitted his completed application form it will be submitted to the local police for comment.

Specified Offences

- 5. The offences listed in Regulation 4(1) (g) are specified for the purposes of Section 3 (4) (b) of the 2001 Act.

Requirement for records to be kept by registered persons

- 6. (1) For the purposes of Section 7(1) registered persons must keep the records set out in this Regulation. These records may be kept in either electronic or manual form and must be kept at the registered place of business.

(2) When a registered person receives any vehicle he must make and keep a record of the vehicle, including the following information -

- (vi) interference with a motor vehicle, contrary to Section 9 of the Criminal Attempts Act 1981(e);
- (vii) tampering with a motor vehicle, contrary to Section 25 of the Road Traffic Act 1988(f).
- (h) undischarged bankruptcy of the applicant or any directors or partners of the applicant business.
- (2) The application form must also state -
 - (i) the amount of the fee that the local authority has decided to charge in exercise of its powers under Section 3(2) of the 2001 Act;
 - (ii) that in accordance with Section 2(4) of the 2001 Act, the registered person's registration will expire 3 years after it has first been granted, and a newly completed application form will need to be submitted to the local authority two months before the expiry of the existing registration, together with the registration fee current at that time;
- (a) details of the vehicle registration number, vehicle identification number, make, model and colour of the vehicle;
- (b) the name, address and contact details of the supplier of the vehicle;
- (c) details of what proof of identity was shown to the registered person by, or on behalf of the supplier of the vehicle, to establish the identity of the vehicle supplier. Proof of identity must be by way of one or more of the following:
 - (i) UK driver's licence;
 - (ii) passport;
 - (iii) any form of identification containing a photograph of the vehicle supplier;
 - (iv) two recent utility bills that show both the name and address of the vehicle supplier.

(d) 1968 c.60
 (e) 1981 c.47
 (f) 1988 c.52

- (d) the condition of the vehicle;
 - (e) the date on which the information referred to in (a)-(d) above was entered on the record.
- (3) When a registered person sells or otherwise disposes of any vehicle, he must add the following pieces of information to the record made under paragraph (2) of this Regulation -
- (a) the date of sale or other disposal of the vehicle;
 - (b) the name, address, and contact details of the person receiving the vehicle;
 - (c) details of what proof of identity was shown to him by the person receiving the vehicle;
- (d) the condition of the vehicle at the time of the sale or other disposal. (For example, whether it was repaired, unrepaired, dismantled, or in the same condition as at purchase);
 - (e) the date when the information referred to in (a)-(d) above was entered on the record.
- (4) The records referred to in this Regulation must be kept for a period of six years from the date of the last entry on the record for each vehicle.
- (5) Section 7 (4) of the 2001 Act applies to the provisions of this Regulation.

EXPLANATORY NOTE

(This note is not part of the Order)

Part 1 of the Vehicles (Crime) Act 2001 introduces powers to regulate the motor salvage industry and require motor salvage operators to register with local authorities and to keep records. These Regulations make detailed provision for the keeping of the register by local authorities; application by motor salvage operators for registration; and requirements for record keeping by registered persons. Non compliance with the record keeping requirements in Regulation 5 of these Regulations will be an offence under section 7(4) of the 2001 Act.

ANNEX C - Offences

The Act creates a number of new offences in relation to failure to comply with its provisions.

1. **Requirement to register** (Section 1(1) of the Act) (paragraph 4.1 above)

Any person carrying on a business as a motor salvage operator as defined in Section 1(2) of the Act and who fails to register with their local authority will be guilty of an offence and will be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale (i.e. not exceeding £5,000).

2. **Keeping of records** (Section 7(4) of the Act) (paragraph 6.5 above)

Failure to keep the records specified in the Regulations to the Act will be an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (i.e. not exceeding £2,500).

3. **Making false statements** (Section 10 of the Act)(paragraphs 4.17 and 4.18 above)

Any applicant for registration or renewal of registration who knowingly or recklessly makes a false statement or provides false information on their application form for registration will be guilty of this offence and will be liable on summary conviction to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000).

Any person who is guilty of this offence and who has had a previous application for registration or renewal refused or has had a previous registration cancelled will be liable on summary conviction to a fine not exceeding level 5 on the standard scale (i.e. not exceeding £5,000).

4. **Requirement on Motor Salvage Operators to notify the local authority of changes** (Section 11(4) of the Act) (paragraph 4.16 above)

Failure to comply with the requirements specified in Section 11 of the Act will be an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000).

5. **Giving false particulars on sale of salvage** (Section 12 of the Act)(paragraph 6.6 above)

Any person who, when selling a motor vehicle to a motor salvage operator, in the course of their business, gives a false name or address will be guilty of this offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (i.e. not exceeding £1,000).

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