



LAWS OF KENYA



SCRAP METAL ACT

CHAPTER 503

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CHAPTER 503

SCRAP METAL ACT

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CHAPTER 503

SCRAP METAL ACT

[Date of assent: 1st July, 1959.]

[Date of commencement: 14th August, 1959.]

An Act of Parliament to make provision for the control and regulation of dealing in scrap metal, and for other purposes connected therewith

[Act No. 26 of 1959, Act No. 15 of 1961, Act No. 44 of 1962, L.N. 375/1963, L.N. 473/1963, L.N. 2/1964, L.N. 303/1964, Act No. 21 of 1966, Act No. 5 of 2007.]

1. Short title

This Act may be cited as the Scrap Metal Act.

2. Interpretation

(1) In this Act, except where the context otherwise requires—

“**bale**” means pack in drums or other containers or bind or hold together by cordage, metal straps, canvas roping or other means, whether similar to the foregoing or not;

“**deal**”, in relation to scrap metal, includes buy or otherwise acquire, and sell or otherwise dispose of, scrap metal in the way of trade or business, whether by way of barter, pledge or otherwise, and whether as principal or agent, but does not include a transaction relating to scrap metal which, by reason of the circumstance thereof, the parties thereto or the nature or quantity of the scrap metal involved therein, is an isolated transaction inconsistent with any form of dealing in scrap metal by way of trade or business;

“**East African Territories**” means Kenya, Uganda and Tanzania;

“**licence**” *deleted by Act No. 5 of 2007, s. 33;*

“**licensed dealer**” *deleted by Act No. 5 of 2007, s. 33;*

“**licensing officer**” *deleted by Act No. 5 of 2007, s. 33;*

“**public authority**” means an authority or undertaking, whether private or publicly owned, declared by the Minister by notice in the *Gazette* to be a public authority for the purposes of this Act;

“**scrap metal**” includes any old metal, second-hand metal, broken metal, defaced or old metal goods (including machinery and plant), whether wholly or partly manufactured, and any metal which is the property of any of the Governments of the East African Territories or of any service or department of the Community or of any public authority, whether ferrous, non-ferrous or ferro-alloyed, but does not include gold, silver or metals of the platinoid group;

“**stolen property**” means property the possession whereof has been transferred by theft, extortion, robbery, false pretence or fraud, and property which has been criminally misappropriated or in respect of which a criminal breach of trust or cheating has been committed, whether the transfer has been made or the misappropriation or breach of trust or cheating has been

committed within or without the Colony; but does not include such property which has subsequently come into the possession of a person legally entitled to the possession thereof.

(2) Every person in whose possession scrap metal is found apparently exposed for sale, or who has in his possession or under his control scrap metal in circumstances or in quantities which raise a reasonable presumption that he has such scrap metal in his possession or under his control for the purposes or with the intention of dealing therewith, shall be deemed, until the contrary is proved, to be dealing in scrap metal.

(3) For the purposes of this Act, scrap metal shall be deemed to be in the possession or under the control of a person if he knowingly places or keeps the scrap metal in the custody or care of another person or in any house, building, lodging, apartment, field or place, open or enclosed, whether occupied by himself or not, and whether the scrap metal is placed or kept for his own use or benefit or for the use or benefit of another.

[L.N. 375/1963, r. 3, L.N. 473/1963, s. 2, Act No. 21 of 1966, First Sch., Act No. 5 of 2007, s. 33.]

3. *Repealed by Act No. 5 of 2007, s. 34.*

4. *Repealed by Act No. 5 of 2007, s. 35.*

5. *Repealed by Act No. 5 of 2007, s. 36.*

6. *Repealed by Act No. 5 of 2007, s. 37.*

7. *Repealed by Act No. 5 of 2007, s. 38.*

8. *Repealed by Act No. 5 of 2007, s. 39.*

9. *Repealed by Act No. 5 of 2007, s. 40.*

[Act No. 44 of 1962, Sch., L.N. 375/1963, L.N. 303/1964, Act No. 21 of 1966, First Sch., Act No. 5 of 2007, ss. 34 - 40.]

10. Notice board to be erected by dealer

(1) Every dealer shall display conspicuously upon the premises specified, in such situation and manner as shall be prescribed, a notice board bearing his full name and the legend "Scrap Metal Dealer" and such other writing as shall be prescribed, and the writing on the said notice board shall be of such size as shall be prescribed.

(2) If a dealer fails to comply with the requirements of this section he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

[Act No. 5 of 2007, s. 41.]

11. Registers to be prepared by dealers

(1) Every dealer shall, within one month of the grant of his licence, correctly prepare in duplicate a detailed register in the prescribed form, or in such other form as a licensing officer may in any particular case approve, legibly written in English or in a language approved by the licensing officer, of each variety of scrap metal, with the weight or dimensions and general description of each of the items, which was at the date of the grant of the licence in his possession or under his control; the duplicate copy of such register shall be signed by the dealer and shall be forwarded to the licensing officer within the said period of one month.

(2) Any dealer who fails to comply with the requirements of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings and, where such offence continues after conviction therefore, to a fine not exceeding one hundred shillings for each day on which such offence continues.

[Act No. 5 of 2007, s. 42.]

12. Record to be kept by dealer

(1) Every dealer shall keep a record in the prescribed form, or in such other form as a licensing officer may in any particular case approve, and shall correctly and legibly enter therein in English or in a language approved by the licensing officer—

- (a) a detailed account of each variety of scrap metal, with the weight or dimensions and general description of the items which from time to time come into his possession or under his control, stating in respect of each item the name of the person (being the licensed dealer or his servant or agent) who purchased, acquired or received the same, and the date and time of, and the consideration for, the transaction, and the name, postal address and occupation of the person from whom he purchased, acquired or received the same; and
- (b) a detailed account of each variety of scrap metal, with the weight or dimensions and a general description of the items which he from time to time sells or disposes of or which otherwise ceases to be in his possession or under his control, showing in respect of each item the date and time of the transaction and the name, postal address and occupation or other adequate means of identification of the person to whom he sold or disposed or parted with possession or control of same.

(2) Every entry required to be made under subsection (1) of this section shall be made within twenty-four hours of the time when the transaction took place, and the dealer shall require every party to such transaction to sign or affix his left thumb-print to such entry, and such party shall so sign or affix his left thumb-print.

(3) Any dealer or other party who fails to comply with any of the requirements of subsections (1) and (2) of this section shall be guilty of an offence and shall be liable, on conviction for a first offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment and on conviction for a second or subsequent offence to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

[Act No. 5 of 2007, s. 43.]

13. Presumption as to entries in register or record

Every entry in a register or record required to be prepared or kept under the provisions of section 11 or section 12 of this Act shall be deemed, unless the contrary be shown, to have been made by or with the authority of the dealer responsible for the preparation or maintenance of such register or record.

[Act No. 5 of 2007, s. 44.]

14. Restriction on dealing in scrap metal by dealer

(1) No dealer shall deal in any scrap metal—

- (a) except between the hours of half-past six o'clock in the morning and half-past six o'clock in the evening; nor

- (b) with any person apparently under the age of eighteen years, whether that person is acting or purporting to act on his own behalf or on behalf of any other person; nor
- (c) with any person who does not satisfy such dealer as to his identity.

(2) No dealer shall store or deal in any scrap metal elsewhere than at the premises specified in his licence:

Provided that a dealer may, with the written permission of a licensing officer, store scrap metal on particular premises, being premises other than those specified in the licence.

(3) Any dealer who contravenes any of the provisions of this section shall be guilty of an offence.

[Act No. 5 of 2007, s. 45.]

15. Restriction on disposing or changing shape or form of scrap metal

(1) No dealer shall part with the possession or control of, disfigure or in any way change the form or shape of, or bale any scrap metal within fifteen days, or in the case of ferrous scrap metal seven days, of acquiring the possession or control of the scrap metal except with the written permission of a police officer not below the rank of Assistant Superintendent.

(2) Any dealer who contravenes the provisions of this section shall be guilty of an offence against this Act.

[L.N. 375/1963, r. 7, Act No. 5 of 2007, s. 46.]

16. Information regarding property stolen or lost

(1) Where a description of any stolen property or any property which has been lost has been given by a police officer to a dealer, and any property answering to such description is in the possession or under the control of the dealer or thereafter comes into his possession or under his control or is thereafter offered or shown to the dealer, he shall forthwith give information to that effect at the nearest police station or to a police officer, with the name and postal address of the person from whom he acquired such property, and such other relevant information as is known to him.

(2) Any dealer who fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence.

[Act No. 5 of 2007, s. 47.]

17. Power of entry

(1) Any police officer not below the rank of Sub-Inspector may at any time enter upon any premises in respect of which he has reasonable cause to believe an offence under this Act or under any rules made thereunder or under any written law has been or is about to be committed, and may inspect such premises and any scrap metal, book, account, register, record, document or thing found therein and may require any person appearing to be in control thereof or employed therein or who has been employed therein within the last preceding months to give such information as will enable the police officer to determine whether or not the provisions of this Act or of any regulations made thereunder or of any written law are being or have been complied with.

(2) Any such police officer acting under this section may demand that the person residing or being in the premises shall allow him full ingress thereto and afford him all reasonable facilities for inspection, and if after notification of his authority and purpose ingress cannot without unreasonable delay be so obtained the officer, if he has reasonable cause to believe that the delay would be likely to imperil the efficacy of the inspection, may without warrant enter such premises and inspect the same and anything found therein, and, if necessary in order to effect such entry, break open any outer or inner door or window or other part of such premises.

(3) Before acting under this section, a police officer (unless he is in uniform) or the appropriate licensing officer shall, if required to do so, produce documentary evidence of his appointment.

(4) Any person who obstructs or hinders a police officer in the exercise of his powers under this section, or who fails to furnish any information required of him under this section, shall be guilty of an offence.

[Act No. 15 of 1961, Sch., L.N. 375/1963, Act No. 5 of 2007, s. 48.]

18. Forfeiture of scrap metal

(1) Subject to the provisions of subsections (3) and (4) of this section, a magistrate may order that any scrap metal in respect of which an offence under this Act has been committed shall be forfeited.

(2) Any scrap metal found without an apparent owner may be seized by a police officer or a licensing officer and shall as soon as possible be taken before a magistrate, who, if satisfied that the owner cannot be found, shall declare it to be forfeited.

(3) An order for the forfeiture of scrap metal under the provisions of subsection (1) or (2) of this section may be a conditional order, and upon a conditional order being made the magistrate shall direct a police officer to advertise the order in one issue of the *Gazette*.

(4) If, within three months from the date of the *Gazette* in which an advertisement issued under the provisions of subsection (3) of this section appears, any person proves to the satisfaction of a magistrate that he has a lawful title to the scrap metal in respect of which the conditional order of forfeiture has been made, or any part thereof, and that he was not concerned in the offence (if any) in respect of which such order was made, the Magistrate may order the said scrap metal, or such part as the magistrate considers just, to be delivered to that person subject to the prior payment of any such sum as the Magistrate may direct to be paid in reimbursement of the expenses incurred in recovering, transporting and storing such scrap metal and in publishing such advertisement as aforesaid; in default of such an order for delivery as aforesaid, the conditional order for forfeiture shall become absolute upon the expiration of the said period of three months.

(5) The provisions of this section shall have effect notwithstanding the provisions of section 33 of the Police Act (No. 70 of 1948).

[L.N. 375/1963, r. 9, r. 10, L.N. 303/1964, Sch.]

19. Repealed by Act No. 5 of 2007, s. 49.

[L.N. 375/1963, r. 11, r. 12, Act No. 21 of 1966, First Sch., Act No. 5 of 2007, s. 49.]

20. Burden of proof on accused

In any proceedings under this Act the burden of proof that any transaction is an isolated transaction inconsistent with any form of dealing in scrap metal by way of trade or business shall lie on the accused person.

21. Police may arrest without warrant for offences under this Act

A police officer may arrest without a warrant any person whom he suspects on reasonable grounds of having committed an offence punishable with imprisonment under this Act.

22. Repealed by Act No. 5 of 2007, s. 50.

[L.N. 375/1963, r. 13, Act No. 5 of 2007, s. 50.]

23. Liability of dealer and servant for acts of servant

(1) Where any act or thing is done or omitted to be done by any agent or servant employed by a dealer which, if done or omitted to be done by such dealer himself would constitute an offence under any of the provisions of this Act, such dealer shall be liable for such offence as if the act thing had been done or omitted to be done by him.

(2) Every agent or servant employed by a dealer in the course of his business as such who does or omits to do anything which would, under the provisions of this Act, be an offence if done or omitted to be done by the dealer, shall be deemed to be guilty of such offence and shall be liable to the punishment prescribed therefor.

[Act No. 5 of 2007, s. 51.]

24. Liability of officer of corporate bodies, etc.

Where an offence under this Act committed by a company, co-operative society or other body of persons, corporate or unincorporate, is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, chairman, manager, secretary or other officer of the company, co-operative society or other body of persons as aforesaid, he, as well as the company, co-operative society or other body of persons, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

25. Exemptions

(1) The Minister may by order—

- (a) exempt from all or any of the provisions of this Act any particular person or class of persons or the persons carrying on any particular trade or business or class of trade or business;
- (b) exclude from the application of all or any of the provisions of this Act any particular scrap metal or class or description of scrap metal or any dealing or class of dealing.

(2) An order made under this section may be limited in time, area or extent, or may be made subject to conditions, and may be varied, limited, extended or rescinded by a subsequent order.

[L.N. 375/1963, r. 14, Act No. 21 of 1966, First Sch.]

26. Repealed by Act No. 5 of 2007, s. 52.

[L.N. 375/1963, r. 12, Act No. 5 of 2007, s. 52.]

27. Penalty

Any person who is guilty of an offence against this Act for which no special penalty (other than forfeiture of scrap metal) is provided by this Act shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

[Act No. 5 of 2007, s. 53.]

28. Power to make rules

The Minister may make rules—

- (a) prescribing the forms to be used under this Act;
- (b) *deleted by Act No. 5 of 2007, s. 54;*
- (c) *deleted by L.N. 375/1963, r. 16;*
- (d) prescribing the forms of any register or record required to be kept by a dealer and any particulars which are required to be entered therein;
- (e) prescribing the situation and manner in which a notice board shall be displayed by a dealer upon the premises specified in his licence, the writing which it shall bear and the size of the writing thereon;
- (f) prescribing the manner in which scrap metal forfeited under this Act shall be disposed of;
- (g) generally for carrying any of the purposes or provisions of this Act into effect.

[L.N. 375/1963, r. 16, Act No. 5 of 2007, s. 54.]

CHAPTER 503

SCRAP METAL ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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SCRAP METAL RULES, 1959

[Section 28, L.N. 346/1959, L.N. 598/1960, L.N. 43/1963, L.N. 375/1963, L.N. 93/1984.]

1. These Rules may be cited as the Scrap Metal Rules, 1959 and shall come into operation on 14th August, 1959.
2. Every application for the grant or renewal of a licence under subsection (2) of section 6 of the Act shall be in Form A in the First Schedule to these Rules.
3. Deleted by L.N. 375/1963, r. 17.
[L.N. 375/1963, r. 18.]
4. Every licence granted or renewed under section 7 of the Act shall be in Form C in the said First Schedule.
5. The notice board required by section 10 of the Act to be displayed shall be displayed on the exterior of the licensed premises and adjacent to the main entrance thereto; and the writing on the notice board shall be of a height of not less than four inches.
6. The register required by subsection (1) of section 11 of the Act to be kept shall be in Form D in the said First Schedule.
7. The record required by subsection (1) of section 12 of the Act to be kept shall be in Form E or Form F in the said First Schedule, as the case may require.
- 7A. Every variation of a general licence shall be in Form G in the said First Schedule.
[L.N. 598/1960, r. 2.]
8. Every variation of a licence shall be in Form G in the said First Schedule.
[L.N. 375/1963, r. 19.]
9. The fees specified in the Second Schedule to these Rules shall be payable under the Act.

FIRST SCHEDULE

FORM A

(Rule 2)

COLONY AND PROTECTORATE OF KENYA
 MINISTRY OF COMMERCE AND INDUSTRY
 THE SCRAP METAL ACT, 1959

This form should be submitted to the Licensing Officer in TRIPLICATE. One copy will be returned to the applicant.

APPLICATION FOR A LICENCE OR RENEWAL OF A LICENCE TO DEAL IN SCRAP METAL

Name(s) of applicant(s)

[Block capitals]

Postal address(es)

.....

Address of registered office

.....

Situation of all the premises at which authority to deal in scrap metal is required

.....

Other business transacted on these premises

.....

[Subsidiary]

FIRST SCHEDULE, FORM A—continued

Number and date of previous licence(s) issued to applicant(s)

I/We hereby certify that—

- (a) *I have not/neither/none of us has been convicted of any offence under the provisions of the Scrap Metal Act, 1959, at any time during the three years immediately preceding the date of this application; and
(b) *I have not/neither/none of us has been convicted of any offence involving fraud or dishonesty at any time during the five years immediately preceding the date of this application; and
(c) *I am not/neither/none of us is an undischarged bankrupt or a company in liquidation; and that the information supplied in this application is true and correct.

Date Signature(s)

*Delete as necessary

Note.—In the case of a partnership, all partners must join in the application.

FORM B

[Rule 3, L.N. 43/1963, s. 2.]

Deleted by L.N. 375/1963, r. 20.

FORM C

(Rule 4)

LICENCE TO DEAL IN SCRAP METAL (SECTIONS 7 AND 8)

Licence No.

Name

Address

..... is hereby licensed to deal in all kinds of scrap metal except at

..... District subject to the provisions of the Scrap Metal Act and of all Rules made thereunder.

This licence expires on 31st December, 20

Fee paid: Sh. 10.

Date

Signature of the Licensing Officer

Scrap Metal

[Subsidiary]

FIRST SCHEDULE—continued

FORM D

(Rule 6)

REGISTER OF SCRAP METAL IN THE POSSESSION OR UNDER THE CONTROL OF THE LICENSEE AT THE DATE OF THE GRANT OF HIS LICENCE (SECTION 11(1))

(This form should be submitted to the Licensing Officer in DUPLICATE within one month after grant of Licence.)

I/We hereby declare that the following is a true and accurate description of every variety of scrap metal in my/our possession or under my/our control on the 20 the date of the grant of my licence.

FULL NAME(S) OF LICENSEE(S)
.....
.....

| Item No. | Variety of metal | Weight or dimensions | General description |
|----------|------------------|----------------------|---------------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |
| 7. | | | |
| 8. | | | |

Date Signature(s)
.....
.....
.....

FORM E

(Rule 7)

RECORD OF SCRAP METAL ACQUIRED (SECTION 12(1))

Name of person(s) who purchased, acquired or received:
.....
.....
.....
Date and time of transaction
Consideration for transaction
Name, postal address of person from whom purchased, acquired or received
.....

Scrap Metal

[Subsidiary]

FIRST SCHEDULE, FORM E—continued

| Item No. | Variety of metal | Weight or dimensions | General description |
|----------|------------------|----------------------|---------------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |
| 7. | | | |
| 8. | | | |

Time and date of making this entry

Signature or left thumb-print of every party to the transaction:

.....

Note.—This record must be completed within TWENTY-FOUR HOURS of the time when the transaction took place.

FORM F

(Rule 7)

RECORD OF SCRAP METAL DISPOSED OF (SECTION 12(1))

Name, postal address and occupation or other adequate means of identification of person(s) to whom sold or disposed of or to whom possession or control given:

.....

Date and time of transaction

| Item No. | Variety of metal | Weight or dimensions | General description |
|----------|------------------|----------------------|---------------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |
| 7. | | | |
| 8. | | | |

Time and date of making this entry

Scrap Metal

[Subsidiary]

FIRST SCHEDULE, FORM F—continued

Signature or left thumb-print of every party to the transaction:

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

Note.—This record must be completed within TWENTY-FOUR HOURS of the time when the transaction took place.

Form G

(Rule 8)

COLONY AND PROTECTORATE OF KENYA
MINISTRY OF COMMERCE AND INDUSTRY

VARIATION OF A LICENCE TO DEAL IN SCRAP METAL

ISSUED UNDER THE PROVISIONS OF THE SCRAP METAL ACT, 1959 (SECTION 9)

ORIGINAL

Licence No.

(Superseding Licence No. Dated

Name

Address

is hereby licensed to deal in scrap metal throughout the Colony and the Protectorate, subject to the provisions of the Scrap Metal Act, 1959, and to all Rules made thereunder, at the following premises

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

This Licence expires on 31st December, 20

Fee Paid: Sh. 10, for which this Licence is also the OFFICIAL RECEIPT.

Date

Signature of the Licensing Officer

For Accounts Office use on duplicate copy only.

| | | |
|-----------|-------------|----------|
| HEAD: | ACCOUNT NO. | SH. CTS. |
| SUB-HEAD: | | 10 00 |
| ITEM: | | |

[Subsidiary]

SECOND SCHEDULE

[Rule 9, L.N. 375/1963, r. 21, L.N. 93/1984, s. 2.]

| | <i>Sh.</i> |
|--|------------|
| For the grant or renewal of a licence under section 7 of the Act | 500 |
| For the variation of a licence under section 9(1) of the Act | 250 |

EXCLUSIONS UNDER SECTION 25(1)(b), 1959

[L.N. 491/1959.]

Scrap metal of iron or of plain carbon steel is excluded from the application of all the provisions of the Act.

EXEMPTIONS UNDER SECTION 25(1)(a)
[L.N. 149/1960.]

Every public authority is exempted from all the provisions of the Act.
