



New South Wales

Scrap Metal Industry Regulation 2024

under the

Scrap Metal Industry Act 2016

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Scrap Metal Industry Act 2016*.

YASMIN CATLEY, MP
Minister for Police and Counter-terrorism

Explanatory note

The object of this regulation is to remake, with minor changes, the *Scrap Metal Industry Regulation 2016*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) the prescribed number of days for which a person must deal in scrap metal to give rise to the rebuttable presumption that a person is carrying on a business dealing in scrap metal,
- (b) additional information in relation to a scrap metal business that the person carrying on the business is required to provide to the Commissioner of Police,
- (c) the registration fee payable by persons carrying on a business dealing in scrap metal,
- (d) the particulars that must be listed on a certificate of registration issued by the Commissioner of Police to a scrap metal dealer,
- (e) the photo identification documents that must be used by a scrap metal dealer to record the name, residential address and date of birth of an individual who sells scrap metal to the dealer,
- (f) an exemption from the requirement for scrap metal dealers to record the unique identifier of a motor vehicle if the motor vehicle has been crushed, cubed or shredded,
- (g) the requirement that a scrap metal dealer must display a copy of the certificate of registration at a scrap metal yard used by the dealer,
- (h) offences under the Act and this regulation that may be dealt with by way of a penalty notice,
- (i) savings and transitional matters.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely the following—

- (a) matters of a machinery nature,
- (b) matters of a savings or transitional nature,
- (c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Scrap Metal Industry Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

Note— This regulation replaces the *Scrap Metal Industry Regulation 2016*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this regulation—

Australian driver licence has the same meaning as in the *Road Transport Act 2013*.

foreign driver licence has the same meaning as in the *Road Transport Act 2013*.

officer has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

Photo Card has the same meaning as in the *Photo Card Act 2005*.

the Act means the *Scrap Metal Industry Act 2016*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 General provisions

4 Prescribed number of days for rebuttable presumption

For the Act, section 4A, the prescribed number of days is 6 days.

5 Prescribed registration information

- (1) For the Act, section 6(2), definition of *registration information*, paragraph (e), the following are prescribed—
 - (a) if the business is carried on by an individual or in partnership—
 - (i) the primary identity information for the individual or each individual in the partnership, and
 - (ii) certified copies of 2 identity documents for the individual or each individual in the partnership, and
 - (iii) the primary identity information for the manager of each scrap metal yard used by the dealer, and
 - (iv) certified copies of 2 identity documents for the manager of each scrap metal yard used by the dealer,
 - (b) if the business is carried on by a corporation—
 - (i) the primary identity information for each officer of the corporation, and
 - (ii) certified copies of 2 identity documents for each officer of the corporation, and
 - (iii) the date and place of birth of the manager of each scrap metal yard used by the dealer, and
 - (iv) certified copies of 2 identity documents for the manager of each scrap metal yard used by the dealer,
- (2) For subsection (1), an individual—
 - (a) must rely on at least 1 identity document that contains the individual's photograph, and
 - (b) must not rely on an identity document that—
 - (i) has expired, other than an Australian passport that has been expired for less than 2 years, or
 - (ii) has been cancelled.
- (3) In this section—

identity document means any of the following documents—

 - (a) a birth certificate issued by a State or Territory,
 - (b) a citizenship certificate issued by the Commonwealth,
 - (c) an Australian driver licence,
 - (d) a passport issued by the Commonwealth that is current or has been expired for less than 2 years,
 - (e) a passport issued by a foreign government that contains—
 - (i) the name, date of birth and photograph of the person in whose name the document is issued, and
 - (ii) the person's passport number, country of issue, and date of expiry,
 - (f) a Photo Card,
 - (g) a proof of age card, however described, issued by a public authority of the Commonwealth or another State or Territory for the purpose of attesting to an individual's identity and age,

- (h) a marriage certificate issued by a State or Territory,
- (i) the following issued by the Commonwealth—
 - (i) a health care card,
Examples— a Health Care Card, a Commonwealth Seniors Health Card, an Ex-Carer Allowance (Child) Health Care Card, a Foster Child Health Care Card or a Low Income Health Care Card
 - (ii) a Medicare Card,
 - (iii) a pensioner concession card,
 - (iv) a certificate of registration by descent,
 - (v) a document that can be used as evidence of immigration status,
Example— an ImmiCard
 - (vi) a veteran card,
Examples— a Veteran Gold Card, a Veteran White Card or a Veteran Orange Card
 - (vii) an aviation security identification card,
 - (viii) a maritime security identification card.

place of birth, of a person, means—

- (a) if the person was born in Australia—the State or Territory, and the suburb or town, in which the person was born, or
- (b) if the person was born in a country outside Australia—the person’s country of birth.

primary identity information, for a person, means—

- (a) the person’s name, and any previous names of the person, and
- (b) the person’s date and place of birth.

6 Prescribed registration fee

For the Act, section 7, the prescribed fee is \$260.

7 Particulars to be included in certificate of registration

For the Act, section 9(1), the following particulars are prescribed—

- (a) the registration number allocated to the certificate of registration,
- (b) the date of registration.

8 Exemption from requirement to include registration information in certificates of registration—the Act, s 28(2)(a)

Registration information other than the registration information under the Act, section 6(2)(a)–(d) is exempt from the requirement under the Act, section 9(1)(a).

9 Circumstances in which registration may be refused, suspended or revoked

- (1) For the Act, section 11A(1), the prescribed circumstances are that—
 - (a) the scrap metal dealer has committed a relevant offence, or
 - (b) the Commissioner believes on reasonable grounds that the scrap metal dealer is likely to commit a relevant offence, or
 - (c) if the scrap metal dealer is a corporation—
 - (i) an officer of the corporation has committed a relevant offence, or
 - (ii) the Commissioner believes on reasonable grounds that an officer of the corporation is likely to commit a relevant offence.
- (2) In this section—

relevant offence means an offence against the Act or this regulation.

10 Photo identification for transaction records

- (1) For the Act, section 16(1)(b)(i), the following are prescribed—
 - (a) an Australian driver licence,
 - (b) a foreign driver licence that—
 - (i) is written in English or accompanied by an English translation, and
 - (ii) contains the individual's date of birth, address and photograph,
 - (c) a Photo Card,
 - (d) a proof of age card, however described, issued by a public authority of the Commonwealth or another State or Territory for the purpose of attesting to an individual's identity and age.
- (2) For subsection (1), an individual must not rely on photo identification that—
 - (a) has expired, or
 - (b) has been cancelled.

11 Exemption from requirement to keep record of unique identifier of motor vehicle—the Act, s 28(2)(a)

A scrap metal dealer is exempt from the requirement under the Act, section 16(1)(e) if, before the transaction that relates to the vehicle occurred, the vehicle was crushed, cubed or shredded.

12 Display of certificate of registration—the Act, s 28(2)(b)

A scrap metal dealer must ensure that a copy of the certificate of registration for the business carried on by the dealer is conspicuously displayed in the main office of each scrap metal yard used by the dealer in carrying on the business.

Maximum penalty—10 penalty units.

Part 3 Savings and transitional provisions—the Act, s 28(4)

13 Savings

An act, matter or thing that, immediately before the repeal of the *Scrap Metal Industry Regulation 2016*, had effect under that regulation continues to have effect under this regulation.

14 Contraventions register

The contraventions register may include information held by the Commissioner before the commencement of this section.

Schedule 1 Penalty notice offences

1 Application of schedule

- (1) For the Act, section 27—
 - (a) each offence created by a provision specified in this schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) the limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 5	\$5,500
Section 8	\$220
Section 12	\$1,100
Section 12A	\$220
Section 13	\$550
Section 14	\$5,500
Section 15(4)	\$5,500
Section 16(1) and (2)	\$550
Section 19(1)	\$2,200
Offences under this regulation	
Section 12	\$220