

THE TRADE ACT

The Trade (Scrap Metal) Regulations, 2007

In exercise of the power conferred upon the Minister by sections 8 and 18 of the Trade Act, the following Regulations are hereby made:-

Preliminary

Citation. 1. These Regulations may be cited as the Trade (Scrap Metal) Regulations, 2007, and shall come into operation on the 12th day of November, 2007.

Interpre- 2. In these Regulations -
tation. "approved exporter" means an exporter approved under section 5 of the Jamaica Promotions Corporation Act;

"authorized officer" means -

(a) any member of the Jamaica Constabulary Force, the Island Special Constabulary Force, the Rural Police or the Jamaica Defence Force;

(b) any public officer designated a Marine Officer under the Exclusive Economic Zone Act; and

(c) an inspector,

and includes any other person acting in the aid of such person acting in the execution of his office or duty;

"carrier permit" or "permit" means a scrap metal carrier permit issued under regulation 12(3)(a);

"consignment" means any quantity of scrap metal intended for export;

"deal" in relation to scrap metal -

- (a) includes buy, receive 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
- (b) does not include a transaction relating to scrap metal which, by reason of the circumstances 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 in the way of trade or business;

"equipment" includes machines, machinery, fixed or moveable devices, implements, apparatus, utensils, appliances, attachments, fittings and fixtures, gears, gadgets, tackles, accessories and contraptions;

"export licence" means an export licence granted under regulation 12(3)(a);

"functions" includes powers and duties;

"inspector" means any person designated by the Minister as an inspector under regulation 23;

"licensed scrap metal processing facility" means a scrap metal processing facility operated by a licensee;

"licensee" means the holder of a licence to carry on business as a scrap metal exporter, an operator of a scrap metal processing facility or as a scrap metal dealer;

"operator" means the owner or person in charge or responsible for the operation of a licensed scrap metal processing facility;

"operating certificate" means a certificate issued by the Minister signifying that a person is a licensee;

"scrap metal" -

(a) includes any old metal, second-hand metal, discarded 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 the Government of Jamaica whether ferrous, non-ferrous or ferro-alloyed; but

(b) does not include gold, silver or metals of the platinoid group;

"scrap metal dealer" means a person who carries on the business of buying or selling scrap metal, whether scrap metal sold is in the form in which it was bought or otherwise;

"scrap metal exporter" means a person who exports scrap metal;

"scrap metal processing facility" means any premises in which scrap metal is collected, sorted, processed, received or stored;

"shipment certificate" means a certificate issued by the Minister authorizing the export of a consignment;

"specified scrap metal" means the scrap metal specified in the First Schedule;

First

Schedule.

"stolen property" means -

- (a) property the possession whereof has been obtained by theft, extortion, robbery, false pretense or fraud;
- (b) property which has been 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 outside Jamaica,

but does not include such property which has subsequently come into the possession of a person legally entitled to the possession thereof.

***Restriction on Export of or
Dealing in Scrap Metal***

- Restriction on exportation of scrap metal.
3. Subject to regulation 4, the exportation of scrap metal is prohibited.
- Restriction on export of specified scrap metal without licence, etc.
4. - (1) Notwithstanding the provisions of regulation 3 and subject to paragraph (2), a person may export any specified scrap metal.
- (2) A person shall not export any specified scrap metal -
- (a) unless he is an approved exporter acting under the authority of an export licence granted by the Minister under regulation 12(3)(a); and
 - (b) except in accordance with the terms and conditions of the export licence.
- Restriction
5. A person shall not transport scrap metal in a motor

on trans-
portation
of scrap
metal.

vehicle unless he holds a carrier permit issued by the
Minister.

Restriction
on dealing
in scrap
metal.

6. - (1) A person shall not deal in specified scrap
metal knowing that it is intended for export to any
person other than to a licensed scrap metal exporter.

(2) A person who contravenes paragraph (1) commits
an offence.

Police to
receive
notice of
intention
to export
specified
scrap
metal.

7. - (1) A licensee shall not export any scrap metal
unless he has given to the officer in charge of the
police station nearest to the scrap metal processing
facility designated in that person's licence not less
than seventy-two hours' notice in writing of his
intention to export the scrap metal, specifying in such
notice the premises and time at which the scrap metal may
be inspected.

(2) A person who contravenes paragraph (1) commits
an offence.

Restriction
on hours of
dealing
in scrap
metal.

8. - (1) A person shall not deal in scrap metal except
between the hours of eight o'clock in the morning and
half-past six o'clock in the evening.

(2) A person who contravenes paragraph (1) commits
an offence.

Prohibited
transactions.

9. - (1) A person shall not deal in scrap metal with any
person -

(a) 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, unless
that person is accompanied by a parent,
grandparent or guardian; or

(b) who does not satisfy him as to his identity.

(2) A person shall not deal in scrap metal with any person who is under the influence of any intoxicating liquor or drug, when the condition is visible or apparent.

(3) A person who contravenes paragraphs (1) and (2) commits an offence.

Restriction
on the
disposal,
etc., of
scrap metal.

10. - (1) Except with the written permission of a police officer not below the rank of inspector, a licensee shall not -

- (a) part with the possession or control of;
- (b) alter, obliterate, tamper with the serial number, word or other identifying mark on;
- (c) disfigure or in any way change the form or shape of; or
- (d) bale,

any scrap metal within fifteen days of acquiring the possession or control of the scrap metal.

(2) A person who contravenes paragraph (1) commits an offence.

***Application, Grant, Refusal, Renewal,
Modification, Suspension and Revocation
of Licence or Permit***

Application
for licence
or permit.

11. - (1) Every person who -

- (a) exports or proposes to export or enter for export scrap metal;
- (b) operates or proposes to operate a scrap metal processing facility; or
- (c) deals or proposes to deal in scrap metal, as an itinerant dealer (Type 1) or as any other dealer (Type 2),

shall apply in the form and manner set out in paragraph (3) to the Minister for a licence to do so.

(2) A person who transports or proposes to

transport scrap metal in a motor vehicle, shall apply in the form and manner set out in paragraph (4) to the Minister for a carrier permit.

(3) An application under paragraph (1) shall -

(a) be made in the case of an application for -

Form 1A.

(i) a licence to deal in scrap metal as an itinerant dealer, in the form set out as Form 1A in the Second Schedule; and

Second

(ii) any other licence, in the form set out

Schedule.

as Form 1B in the Second Schedule;

Form 1B.

(b) specify the premises to which the application relates; and

(c) be accompanied by the fee specified in relation thereto in the Third Schedule.

Third

Schedule.

(4) An application under paragraph (2) shall -

(a) be made in triplicate in the form set out as

Form 2.

Form 2 in the Second Schedule; and

(b) be accompanied by the fee specified in relation thereto in the Third Schedule.

(5) Where the Minister thinks necessary, he may require an applicant for a licence or permit to furnish such information, documents, police report or environmental impact assessment, as the Minister may require.

(6) The Minister may exempt categories of persons from the operation of this regulation.

Grant or

12. - (1) Upon receipt of an application under regulation

refusal of

11 the Minister shall cause an inspector to carry out an

licence.

inspection of any premises to which the application relates.

(2) The inspector shall submit to the Minister a

Form 3.

report in the form set out as Form 3 in respect of an

inspection carried out under paragraph (1).

(3) Upon receipt of the report the Minister may -

(a) grant a licence or issue a permit upon payment of the fee specified in relation thereto in the Third Schedule; or

(b) refuse to grant a licence or issue a permit.

(4) A licence granted or permit issued under this regulation shall be, in the case of -

Form 4A. (a) a licence to export or enter for export scrap metal, in the form set out as Form 4A in the Second Schedule; and

Schedule. (b) a licence to deal in scrap metal, in the form set out as Form 4B in the Second Schedule;

Form 4B. (c) a licence to operate a scrap metal processing facility, in the form set out as Form 4C in the Second Schedule;

Form 4C. (d) a carrier permit, in the form set out as Form 4D in the Second Schedule; and

(e) subject to such terms and conditions, including the provision of financial assurance or insurance, as may be specified therein.

(5) Where the Minister grants a licence under paragraph (3)(a), he shall issue an operating certificate in the form set out as Form 4E in the Second Schedule to the licensee or holder of the permit in the form set out as Form 4E in the Second Schedule.

(6) Where, pursuant to paragraph (3)(b), the Minister refuses to grant a licence or issue a permit, he shall inform the applicant in writing of the refusal and the reasons therefor.

(7) Where a licensee is itinerant the Minister

shall note that fact on his licence and the provision of regulation 25 shall apply.

Non-trans-
ferability,
validity of
licence
or permit.

13. A licence granted, or permit issued under regulation 12 shall not be transferable and shall be valid for a period of one year.

Refusal to
grant
licence
or issue
permit.

14. - (1) The Minister may refuse to grant a licence or issue a permit under these Regulations -

(a) where, in the opinion of the Minister, the issue of the licence or permit would not be in the public interest;

(b) where an application contains or is based on a false or misleading representation or on information which is false in a material particular;

(c) to an individual who -

- (i) is under the age of eighteen years;
- (ii) is an undischarged bankrupt; or
- (iii) has been convicted, during the period of five years immediately preceding the application, of an offence specified in paragraph (2); or

(d) to a body corporate -

- (i) in respect of which a resolution has been passed for voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;
- (ii) if a receiver has been appointed to manage any of its assets;

(iii) if any of its directors has been convicted of an offence specified in paragraph (2) during the period of five years immediately preceding the application; or

(iv) which has been convicted during the period of five years immediately preceding the application of an offence specified in paragraph (2).

(2) The offence referred to in paragraph (1) is -

- (a) an offence against these Regulations; or
- (b) an offence involving fraud or dishonesty.

Renewal of
licence or
permit.

15. - (1) A licence granted or a permit issued pursuant to these Regulations may be renewed by the Minister if -

- (a) an application for renewal is made not later than thirty days before the date of expiry or within such longer period as the Minister may allow;
- (b) the Minister is satisfied that the licensee or holder of the permit is operating in compliance with the provisions of these Regulations;
- (c) the applicant has paid all fees payable to the Minister under these Regulations;
- (d) there has been no material change in the circumstances which existed at the time the export licence was granted which would justify the application being treated as a new application in the manner specified in paragraph (2); and
- (e) the applicant has not been convicted of an offence specified in regulation 14(2) or, in the case of a body corporate, a director, the manager, the secretary or other officer thereof has not been convicted of such an offence.

(2) Where the Minister -

- (a) receives an application for the renewal of an export licence after the period specified in paragraph (1)(a); or
- (b) is satisfied that a material change of circumstances has occurred since the export licence had been granted,

he shall treat the application as a new application, and accordingly, the provisions of regulations 12 and 13 shall apply.

(3) An application for the renewal of a licence or permit shall be in the form set out as Form 5 in the Second Schedule.

16. The Minister shall not issue a licence or permit on grant retrospectively.

17. - (1) A licensee or holder of a permit may apply in writing to the Minister for the variation, modification or surrender of the licence or permit stating clearly the reasons therefor.

(2) In considering an application under paragraph (1), the Minister shall have regard to the matters specified in regulation 14.

(3) An application for the variation, modification or surrender of a licence or permit shall be in the form set out as Form 6 in the Second Schedule.

Suspension
of licence
or permit.
Form 7.
Second
Schedule.

18. - (1) Subject to paragraph (2), the Minister may, by serving a notice in the form set out as Form 7 in the Second Schedule, suspend a licence or permit if -

(a) the licensee or the holder of the permit is in breach of -

(i) any provision of the Act or any regulations made thereunder; or

(ii) any term or condition subject to which the licence is granted or the permit is issued;

(b) he is satisfied that it is not possible to carry out a proper inspection of any premises to which a licence or permit relates;

(c) a licensee or holder of a permit notifies the Minister in writing that he intends to cease the operations for which he is licensed or authorized for the period stated in the notice.

(2) Before suspending a licence or permit under paragraph (1), (b) or (c), the Minister shall notify the licensee or holder of the permit in writing of the proposed suspension -

(a) stating the reason therefor; and

(b) requiring the licensee or holder of a permit, in the case of a breach, to remedy the breach within the time specified in the notice.

(3) A licensee or holder of a permit who is served with a notice of suspension of a licence or permit shall, after remedying the breach which gave rise to the suspension, notify the Minister in writing that the breach has been remedied.

(4) The Minister shall, upon receipt of a notice referred to in paragraph (3), cause an inspection to be

carried out within ten days of the receipt of the notice and if, on inspection, the inspector is satisfied that the breach has been remedied, he shall report in writing to the Minister who shall withdraw the notice of suspension.

(5) Where a licensee fails to remedy a breach or the breach is not remedied to the satisfaction of the inspector, the licensee shall forthwith return his operating certificate to the Minister.

Revocation
of licence.

19. - (1) The Minister may revoke a licence or permit if he is satisfied that -

- (a) the licensee or holder of the permit has ceased to comply with the provisions of these Regulations;
- (b) the application for the licence or permit contained any false or misleading information in any material particular;
- (c) the licensee or holder of the permit has failed to remedy the breach which gave rise to the suspension of the licence or permit under regulation 18, within the time specified in a notice under paragraph (2) of that regulation; or
- (d) any fee or other charge payable by the licensee or holder of the permit under these Regulations remains unpaid for a period of ninety days after the suspension of the licence or permit.

(2) Before revoking a licence or permit under paragraph (1), the Minister shall notify the licensee or holder of the permit in writing of the proposed revocation stating the reasons therefor.

(3) A notice of the revocation of a licence or permit shall be in the form set out as Form 8 in the

Second Schedule. Second Schedule.

(4) Where a licence or permit is revoked pursuant to this regulation, the licence and any operating certificate relating thereto or the permit shall be returned forthwith to the Minister.

20. - (1) Every licensee shall display conspicuously on board to the exterior and adjacent to the main entrance of the scrap metal processing facility a notice board bearing his full name and the words "Licensed Exporter, Scrap Metal", "Licensed Operator, Scrap Metal Processing Facility" or "Licenced Dealer, Scrap Metal", as the case may be.

(2) The writing on the notice board shall be of a height of not less than four inches.

(3) The identification number of every scrap metal processing facility shall be affixed on the immediate container of scrap metal to be exported or entered for export preceded by the words "Licensed scrap metal processing facility" or "Lic. SMPF No.".

(4) An operator who fails to comply with the requirements of paragraphs (1) and (2) commits an offence.

21. - (1) Every licensee or holder of a permit shall, within one month of the grant of his licence or issue to him of his permit, correctly prepare in duplicate a detailed inventory of each variety of scrap metal, which is, at the date of the grant of the licence or permit, in his possession or under his control.

(2) An inventory under paragraph (1) shall be in the form set out as Form 9 in the Second Schedule.

(3) A licensee who fails to comply with the requirements of paragraph (1) commits an offence.

Records

Records. 22. - (1) Subject to paragraph (2), every licensee or holder of a permit shall keep, in electronic or manual form as is appropriate the scrap metal processing facility or in his motor vehicle, records detailing all scrap metal dealt and all scrap metal either processed at or despatched from that place or any other place as the case may be including a scrap metal dealer's control sheet in the form set out as Form 10 in the Second Schedule.

Form 10. (2) Two or more sets of records may be kept where the scrap metal processed at or despatched from a place is not received at that place.

Second (3) The records of a licensee or holder of a permit shall include -

(a) the date, place, and time of each transaction;

(b) a description of the scrap metal, including -

(i) any serial number, word, or other identifying feature;

(ii) its weight, if payment is based on weight;

(iii) a statement on whether it appears to have been altered by any means, including obscuring a serial number, word or other identifying feature;

(iv) the type of item;

(v) its manufacturer, model number, year of manufacture if known, and serial number if known; and

(vi) its colour and size;

(c) if the metal is received from another person, the name and address of that person;

- (d) the price of the metal, if it has been ascertained at the time the entry is made;
- (e) if no price has been ascertained, the estimated value of the scrap metal;
- (f) the amount paid or received or other consideration if different from the price;
- (g) the motor vehicle licence number of any motor vehicle used to deliver the scrap metal.

(4) Where a licensee or holder of a permit receives a motor vehicle as scrap metal he shall make and keep a record of the following information -

- (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 any proof of identity shown to the licensee by, or on behalf of the supplier of the vehicle, to establish the identity of the vehicle supplier, including whether any document produced was a Jamaican driver's licence, a passport, or other form of identification containing a photograph of the vehicle supplier;
- (d) the general condition of the vehicle including whether the vehicle is damaged, and if so, whether the damage has been caused by fire, water or impact and the part of the vehicle damaged;
- (e) the date on which the information referred to in paragraphs (a) to (d) was entered on the record.

(5) When a licensee sells or otherwise disposes of any vehicle, he shall include the following information in 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 motor vehicle;
- (c) details of any proof of identity shown to the licensee by, or on behalf of the purchaser of the vehicle, to establish the identity of the person receiving the vehicle, including whether any document produced was a Jamaican driver's licence, a passport, or other form of identification containing a photograph of the vehicle purchaser;
- (d) the condition of the vehicle at the time of the sale or other disposal, including, whether it was repaired, unrepaired, dismantled, or in the same condition as at purchase);
- (e) the date when the information referred to in paragraphs (a) to (d) was entered on the record.

(6) Entries shall be made immediately upon receipt, processing or despatch and books containing records shall be kept for two years following the last entry.

(7) Where a person satisfies the Minister that the business is part of the business of an itinerant scrap metal dealer, the Minister may, after consulting with the Commissioner of Police, make an order requiring that, on the sale of any scrap metal, he shall obtain from the purchaser a receipt showing the weight of the metal and the aggregate price at which it was sold.

(8) The receipts shall be kept for two years and shall be produced on demand to any person or body

authorized by the Minister to require their production.

Inspection and Certification of Scrap Metal

Designation of inspectors. 23. - (1) The Minister may, from time to time, designate as inspectors for the purposes of these Regulations, public officers or persons who, by training and experience are, in his opinion, qualified to be so designated.

(2) Each inspector shall be furnished with an identification card and shall, on entering any place for the purpose of carrying into effect any of the functions set out in regulation 24, produce the identification card when required.

(3) The designation of any person as an inspector shall be published in the *Gazette*.

Functions of inspectors. 24. - (1) The functions of an inspector shall be to -

- (a) inspect scrap metal processing facilities in order to -
 - (i) ensure compliance with these Regulations or any condition subject to which a licence or permit is granted; and
 - (ii) examine the premises, facilities, equipment and staff in order to prevent dealing in scrap metal other than specified scrap metal and control any malpractice relating to scrap metal;
- (b) certify scrap metal for export;
- (c) take samples of scrap metal;
- (d) inspect any container, vehicle or other vessel which is used or intended to be used for the storage or transportation of scrap metal;
- (e) open and examine any container, vehicle or other storage device at licensed scrap metal processing

facilities which is reasonably believed to contain any scrap metal;

- (f) tag scrap metal and any container or package in which it is stored which contravenes or which the inspector believes to contravene the Act or these Regulations;
- (g) give directives to the operator of any container, vehicle, aircraft, boat or vessel which is used or intended to be used for the storage or transportation of scrap metal; and
- (h) examine, and where necessary, make copies of, or take extracts from, any records and document required to be kept under these Regulations.

(2) The Minister may require an inspector to seal -

- (a) a licensed scrap metal processing facility;
- (b) a motor vehicle;
- (c) a container systems unit; or
- (d) any other thing used in connection with the export of scrap metal.

Reference to
keeping
books.

25. Where a licensee does not operate a scrap metal processing facility and is an itinerant then the reference to keeping a book at a scrap metal processing facility shall be construed as a reference to keeping a book either at the licensee's usual place of residence or at any other place occupied for the purpose of the scrap metal business.

Reference
to receipts
etc.

26. - (1) The references to the receipt, processing or despatch of scrap metal at or from a place shall be construed as the receipt, processing or despatch of scrap metal during the course of business.

(2) Particulars shall be entered in the book as soon as is practicable.

***Intention to Enter Prescribed
Scrap Metal for Export***

Notice of intention, inspection and certification. 27. - (1) An exporter who intends to export specified scrap metal shall give to the Minister notice of such intention in such form as the Minister may determine at least seven days prior to date of export of the specified scrap metal.

(2) Where a notice of intention to enter for export specified scrap metal has been given to the Minister, the Minister shall cause an inspection of the specified scrap metal to be carried out.

Third Schedule. (3) Where on inspection the specified scrap metal is found to be fit for export the Minister shall issue a shipment certificate in respect of the specified scrap metal on payment of the fee prescribed in relation thereto in the Third Schedule.

(4) No person shall alter, add to or delete information contained in -

(a) a notice of intention to enter for export specified scrap metal after certification of the notice under paragraph (1); or

(b) an export health certificate after the issue thereof.

(5) A person who contravenes a provision of paragraph (1) commits an offence.

Inspection of specified scrap metal if condition changed, etc. 28. Where an inspector has reasonable grounds to believe that after certification or the grant of a shipment certificate and before the specified scrap metal is exported there is non-compliance with any provision of these Regulations relating to scrap metal he shall inspect the specified scrap metal and detain the metal, and so inform the Minister who shall immediately notify

the exporter in writing stating that the certification and the shipment certificate are withdrawn and the reasons therefor and the exporter shall forthwith return the notice of intention and the shipment certificate and shall not export the specified scrap metal.

***Duties of Licensee or Holder of Permit
in Relation to Lost or Stolen Property***

Information regarding property stolen or lost. 29. - (1) Where a description of any stolen property or any property which has been lost has been given by a police officer to a licensee or a holder of a permit, and any property answering to such description is in the possession or under the control of the licensee or holder of a permit or thereafter comes into his possession or under his control or is thereafter offered or shown to the licensee or holder of the permit, the licensee or holder of the permit shall forthwith give information to that effect at the nearest police station or to a police officer, along 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 licensee or holder of a permit who fails to comply with the provisions of paragraph (1) of this regulation commits an offence.

Offences and Penalties Generally

Offence of exporting scrap metal without licence or certificate. 30. Every person who exports or enters for export scrap metal -

(a) without a valid licence or shipment certificate or otherwise in contravention of these Regulations;

(b) during any period in which his licence is suspended or revoked,

commits an offence.

- Offence of operating processing facility in contravention of the Act.
31. Every person who operates a scrap metal processing facility -
- (a) without a valid licence or otherwise in contravention of these Regulations;
 - (b) during any period in which his licence is suspended or revoked,
- commits an offence.
- Offence of exporting without identification number.
32. Every person who exports or enters for export any scrap metal without an identification number affixed to the packaging commits an offence.
- Offence of corruption by authorized officer.
33. Any authorized officer who in the performance of his functions under these Regulations -
- (a) accepts a bribe in cash, goods, service or kind;
 - or
 - (b) falsifies any record or report,
- commits an offence.
- Offence of making false or misleading statement.
34. Every person who -
- (a) for the purposes of obtaining, whether for himself or for any other person, the issue, grant or renewal of any licence under these Regulations, makes any declaration or statement which is false or misleading in any particular;
 - (b) knowingly furnishes to any authorized officer any document containing information which is false or misleading;
 - (c) knowingly utters, produces or makes use of any declaration or statement or any document containing any false declaration or statement; or
 - (d) falsifies or amends any information contained in a licence or shipment certificate,

commits an offence.

Offence of threatening, etc.,
authorized officer.

35. Any person who threatens, assaults or obstructs an authorized officer acting in the execution of his duties under these Regulations commits an offence.

Offence of failure to keep records.

36. Every person who -

(a) fails to keep any records or other documents required by these Regulations; or

(b) fails, without reasonable excuse, to produce any such books, records or other documents,

commits an offence.

Penalty.

37. Any person who contravenes any provision of these Regulations is liable on summary conviction before a Resident Magistrate to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding twelve months.

Enforcement

Vehicle, etc., may be seized and detained.

38. Where an authorized officer has reasonable cause to suspect that -

(a) any scrap metal; or

(b) any vehicle, aircraft, vessel, article, enclosure, container or other storage facility, device or apparatus (hereinafter referred to as "specified equipment"),

is being used or has been used in the commission of an offence against these Regulations, such authorized officer may, without a warrant, search the specified equipment, and if such search reveals evidence that the specified equipment is being used or has been used for the commission of any offence as aforesaid, the authorized officer may seize and detain the specified

equipment.

General
power of
entry,
inspection
and seizure.

39. - (1) An authorized officer (other than a person referred to in paragraph (a) of the definition of "authorized officer" in section 2) may, for the purpose of the execution of these Regulations, enter at all reasonable times, any scrap metal processing facility and inspect any book, document, licence, permit, certificate or record or things relating thereto.

(2) An authorized officer referred to in paragraph (1) may, during the course of an inspection pursuant to paragraph (1), seize and detain -

(a) any scrap metal found therein; or
(b) any equipment or other article found therein, which the authorized officer reasonably believes is being used in contravention of any provision of these Regulations.

(3) Where a person is convicted of an offence under these Regulations in relation to which any specified equipment seized and detained under paragraph (1) is used in committing the offence, the Court may, on an application by the Director of Public Prosecutions order that the specified equipment be forfeited to the Crown.

Procedures
regarding
application
for
forfeiture.

40. - (1) Where the Director of Public Prosecutions proposes to apply to the Court for an order of forfeiture under paragraph (3) of regulation 39, the Director of Public Prosecutions shall, subject to paragraph (4) of this regulation, notify in writing the owner of and any person (if known) having an interest in the specified equipment that he proposes to apply for such an order.

(2) The owner or other person notified under paragraph (1) may appear before the Court at the hearing

of the application and show cause why the specified equipment should not be forfeited.

(3) Where the Director of Public Prosecutions is unable to ascertain the owner of or any person having an interest in any specified equipment to which this regulation applies, he shall publish a notice in a daily newspaper circulating in Jamaica regarding the intention to apply to the Court for an order for forfeiture, not less than thirty days prior to the application.

(4) Notice shall not be required under paragraph (1) if the seizure or detention of the specified equipment was made in the presence of the owner or person having an interest in the specified equipment.

(5) If, upon the application of a person prejudiced by an order made under paragraph (3) of regulation 39, the Court is satisfied that it is just in the circumstances of the case to revoke such order, the Court may revoke such order upon such terms and conditions, if any, as it deems appropriate, and without prejudice to the generality of the foregoing, may require such person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the specified equipment, such amount as may be charged by the person in whose custody the specified equipment was kept.

(6) An application to the Court under paragraph (5) for the revocation of a forfeiture order shall be made within thirty days of the date of the making of such an order or such longer period not exceeding six months, as the Court may allow.

Search
warrant.

41. Where a Justice of the Peace is satisfied by information on oath by an authorized officer that there is reasonable ground for suspecting -

- (a) that any scrap metal is in the possession or under the control of any person on any premises in contravention of the provisions of these Regulations; or
- (b) that there is in the possession of or under the control of any person on any premises, any document directly or indirectly relating to or connected with any transaction or dealing in any scrap metal which, if carried out would be an offence against these Regulations,
- or which relates to a transaction or dealing carried out or intended to be carried out in any place outside the Island and which would be an offence against the provisions of any corresponding law in force in that place, the Justice of the Peace may grant a search warrant authorizing the authorized officer named in the warrant, at any time or times within one month from the date of the warrant, to enter and search the premises, seize and detain any document, scrap metal or detain any person found therein.

Licensee to
provide
accommo-
dation.

42. Every licensee shall, if the Minister so requires, provide restroom facilities, clerical support, a seat and a table which he shall permit any person authorized by the Minister to occupy in a suitable part of his premises for the purpose of ensuring compliance with the provisions of these Regulations.

Cessation
order.

43. - (1) Where a licensee fails to apply for a licence as required under or by regulation 11, the Minister may issue an order in writing to that person directing him to cease all operation to which his licence relates, by such date as shall be specified in the order.

(2) Where the person to whom an order is issued

under paragraph (1) fails to comply with the order, the Minister may -

(a) direct an authorized officer to take such steps as he considers appropriate to ensure the cessation of all activities to which the order relates; or

(b) apply to the Supreme Court for an injunction, whether or not it has exercised or is proposing to exercise his powers under these Regulations.

(3) In carrying out a direction pursuant to paragraph (2)(a), an authorized officer may use such force as may be necessary for the purpose of ensuring compliance with the order.

Form 11. (4) A cessation order shall be in the form set
Second out as Form 11 in the Second Schedule.
Schedule.

General

Register. 44. - (1) The Minister shall keep, in such manner as he thinks fit, an official register or registers, in manual or electronic form or otherwise, in which shall be kept a record of all licences granted or permit issued; and all actions taken under the Act or these Regulations in respect of any such export licence shall be entered in the appropriate register.

Fourth (2) The official register shall contain the
Schedule. information specified in the Fourth Schedule and each entry therein shall be signed by the person authorized for that purpose by the Minister.

(3) Every register to which paragraphs (1) and (2) refer shall be open for inspection free of charge to the public at the offices of the Minister at all reasonable hours, copies of any entry in any such register may be

provided to any person on payment of the fee specified in the Third Schedule.

(4) The Minister shall evaluate for exclusion from public disclosure any information indicated by the applicant to be commercially sensitive or the disclosure of which would be contrary to the public interest or the interest of national security.

45. The fee specified in the second column of the Third Schedule shall be payable in respect of the matters respectively specified in relation thereto in the first column of the Schedule.

FIRST SCHEDULE (Regulations 2 and 4(1))

Scrap Metal Requiring an Export Licence

- | | | |
|----|------------|--|
| 1. | Chapter 72 | -Iron and Steel - only those tariff headings and numbers listed below - |
| | 72.04 | Ferrous waste and scrap, re-melting scrap ingots of iron and steel |
| 2. | Chapter 74 | -Copper and articles thereof - only those tariff headings and numbers listed below - |
| | 74.04 | Copper waste and scrap |
| | | -Nickel and articles thereof - only those tariff headings and numbers listed below - |
| 3. | Chapter 75 | |
| | 75.03 | Nickel waste and scrap |
| 4. | Chapter 76 | -Aluminum and articles thereof - only those tariff headings and numbers listed below - |
| | 76.02 | Aluminum waste and scrap |
| 5. | Chapter 78 | -Lead and articles thereof - only those tariff headings and numbers listed below - |

	78.02	Lead waste and scrap
6.	Chapter 79	-Zinc and articles thereof- only those tariff headings and numbers listed below -
	79.02	Zinc waste and scrap
7.	Chapter 80	-Tin and articles thereof - only those tariff headings and numbers listed below -
		Tin waste and scrap
8.	Chapter 81	Other base metals; Cermets; articles thereof

SECOND SCHEDULE **(Regulations 11, 12, 15,
17, 18, 19 and 43)**

Forms

(Insert forms here)

THIRD SCHEDULE **(Regulation 43)**

Fees

Export licence Category	Fee \$
(a) upon each application for a licence	300.00
(b) upon the grant of an export licence	3495.00
(c) upon the grant of a licence to operate a scrap metal processing facility	10,000.00
(d) upon the grant of a licence to an itinerant dealer	500.00
(e) upon the grant of a licence to any other dealer	10,000.00
(f) carrier permit	2,000.00
(g) upon renewal of licence	5,000.00
(h) copies of entries in Register for each copy	50.00

Any fee paid in respect of an application for a licence or permit shall not be refundable.

FOURTH SCHEDULE**(Regulation 42)***Contents of Official Register*

1. Date of lodgement of application.
2. Name of applicant.
3. Business address of applicant.
4. Name of operator, if different from applicant.
5. Business address of operator, if different from applicant.
6. Usual place of residence or any other place occupied for the purpose of the scrap metal business
7. Category of licence for which application made.
8. Address of scrap metal processing establishment.
9. Nature of export operation.
10. Description of equipment, used in establishment.
11. Date of inspection of processing establishment.
12. Name and identification number of inspector carrying out inspection.
13. Date of submission of report of inspection.
14. Date of grant of licence.
15. Date of refusal of application.
16. Reasons for refusal.
17. Date of notification or refusal of application.
18. Date of renewal of licence.
19. Date of notification of suspension of licence.
20. Reasons for suspension of licence.
21. Date of withdrawal of suspension of licence.
22. Date of notification of revocation of licence.
23. Any other information the minister this necessary.

Dated at Kingston this day of November, 2007.

Minister of Industry, Commerce
and Investment

