

South Australia

Scrap Metal Dealers Act 2025

An Act to regulate the scrap metal industry, and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Scrap Metal Dealers Act 2025*.

2—Commencement

- (1) This Act comes into operation on a day to be fixed by proclamation.
- (2) Section 27(6) of the *Legislation Interpretation Act 2021* does not apply to this Act or to a provision of this Act.

3—Interpretation

- (1) In this Act—

buy includes—

- (a) buy under an agreement to sell; or
- (b) receive under an agreement to sell; or
- (c) accept under an agreement to sell; or
- (d) offer to receive or accept under an agreement to sell; or
- (e) cause or permit any of the above to be done;

Commissioner of Police means the Commissioner of Police or the person for the time being acting in the office of Commissioner of Police;

criminal intelligence means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or endanger a person's life or physical safety;

director of a body corporate includes—

- (a) a person occupying or acting in the position of director or member of the governing body of the body corporate, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; and
- (b) any person in accordance with whose directions or instructions the directors or members of the governing body of the body corporate are accustomed to act;

disqualified, from carrying on a business of buying and selling prescribed scrap metal, includes disqualification under an interim disqualification notice;

premises means—

- (a) any land, building or structure; or
- (b) any vehicle;

prescribed electrical and telecommunication fixtures and fittings means electrical and telecommunication fixtures and fittings (including, to avoid doubt, cabling, switchboards, lights, poles and related infrastructure), or electrical and telecommunication fixtures and fittings of a class, prescribed by the regulations;

prescribed hot water system means a hot water system, or hot water system of a class, prescribed by the regulations;

prescribed organisation and **member of a prescribed organisation** have the same meanings as in the *Tattooing Industry Control Act 2015*;

prescribed rail fixtures and fittings means railway or tramway fixtures and fittings, or railway or tramway fixtures and fittings of a class, prescribed by the regulations;

prescribed scrap metal—see section 4;

prescribed scrap metal dealer—see section 5;

prescribed water meter means a water meter, or water meter of a class, prescribed by the regulations;

scrap metal—see section 4;

sell includes—

- (a) sell by wholesale, retail, auction or tender; or
- (b) barter or exchange; or
- (c) supply for profit or gain; or
- (d) offer for sale, receive for sale or expose for sale; or
- (e) consign or deliver for sale; or
- (f) have in possession for sale; or
- (g) cause or permit any of the above to be done;

Tribunal means the South Australian Civil and Administrative Tribunal.

- (2) For the purposes of this Act, 2 persons are **close associates** if—

- (a) 1 is a spouse, parent, brother, sister or child of the other; or

- (b) 1 is a domestic partner of the other (within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not); or
 - (c) they are members of the same household; or
 - (d) they are in partnership; or
 - (e) they are related bodies corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth); or
 - (f) 1 has a right to participate (other than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
 - (g) 1 is in a position to exercise control or significant influence over the conduct of the other.
- (3) For the purposes of subsection (2), a reference to a parent, brother, sister or child of a person will be taken to include a reference to a step-parent, step-brother, step-sister or step-child (as the case requires) of the person.

4—Meaning of scrap metal and prescribed scrap metal

- (1) For the purposes of this Act, an item will be taken to be *scrap metal* if the item—
- (a) is metal, or contains or includes a substantial proportion of metal; and
 - (b) is either—
 - (i) used, discarded, abandoned, broken, worn out or at the end of its useful life; or
 - (ii) an item, or an item of a class, prescribed by the regulations,or both.
- (2) However, an item (whether an item referred to in subsection (1) or otherwise) will be taken not to be scrap metal if the item, or a class of items to which the item belongs, is declared by the regulations not to be scrap metal.
- (3) For the purposes of this Act, scrap metal consisting of or including any of the following items or classes of items will be taken to be *prescribed scrap metal*:
- (a) catalytic converters;
 - (b) items comprised of copper (whether in a pure form or otherwise);
 - (c) prescribed electrical and telecommunication fixtures and fittings;
 - (d) prescribed hot water systems;
 - (e) prescribed rail fixtures and fittings;
 - (f) prescribed water meters;
 - (g) any other item, or item of a class, prescribed by the regulations.
- (4) However, an item referred to in subsection (3) will be taken not to be prescribed scrap metal if the item is declared by the regulations not to be prescribed scrap metal.

5—Meaning of prescribed scrap metal dealer

- (1) For the purposes of this Act, a person is a *prescribed scrap metal dealer* if—
 - (a) the person carries on the business of buying or selling prescribed scrap metal;
or
 - (b) the person undertakes any other activity in relation to prescribed scrap metal of a kind prescribed by the regulations.
- (2) However, the following persons (being persons who are genuinely acting in the course of their business or employment) will not be taken to be prescribed scrap metal dealers, or to be carrying on a business of buying or selling prescribed scrap metal merely because they buy or sell prescribed scrap metal in the ordinary course of their business or employment:
 - (a) licensed electricians, plumbers, gas fitters, builders or other tradespeople;
 - (b) a person operating a vehicle collision repair, vehicle mechanical repair or auto-electrician business;
 - (c) an employee of a person referred to in a preceding paragraph;
 - (d) any other person, or person of a class, prescribed by the regulations.
- (3) To avoid doubt, subsection (2)(b) does not include a person operating an automotive dismantling business.
- (4) Subsection (2) does not apply in relation to a person, or person of class, or in circumstances, prescribed by the regulations.

6—Presumption of carrying on business of buying and selling prescribed scrap metal

- (1) For the purposes of this Act, a person will be taken to be carrying on a business of buying and selling prescribed scrap metal, and will be taken to be a prescribed scrap metal dealer, if the person buys or sells prescribed scrap metal (or both) on not less than 12 occasions within a 12 month period.
- (2) If in proceedings for an offence against this Act it is established that, within the period of 12 months immediately preceding the date of the alleged offence, the defendant bought or sold prescribed scrap metal on more than the prescribed number of days, it will be presumed, in the absence of proof to the contrary, that the defendant was carrying on a business of buying and selling prescribed scrap metal, and was a prescribed scrap metal dealer, on the date of the alleged offence.
- (3) However, nothing in this section limits the ways in which a person may carry on a business of buying and selling prescribed scrap metal.
- (4) In this section—

prescribed number of days means—

 - (a) if the regulations prescribe a number of days for the purposes of this section—that number; or
 - (b) in any other case—12.

7—Application of Act

- (1) The provisions of this Act are in addition to and do not derogate from the provisions of the *Second-hand Dealers and Pawnbrokers Act 1996*, the *Second-hand Vehicle Dealers Act 1995* or any other Act or law.
- (2) In particular, nothing in this Act prevents—
 - (a) a person who may lawfully buy or sell second-hand goods (within the meaning of the *Second-hand Dealers and Pawnbrokers Act 1996*) under that Act from doing so; or
 - (b) a person who may lawfully buy or sell second-hand vehicles (within the meaning of the *Second-hand Vehicle Dealers Act 1995*) under that Act from doing so.
- (3) However, nothing in the *Second-hand Dealers and Pawnbrokers Act 1996*, the *Second-hand Vehicle Dealers Act 1995* or any other Act or law authorises a person who is disqualified from carrying on a business of buying and selling prescribed scrap metal under this Act to carry on such a business.

8—Criminal intelligence

- (1) Information that is classified by the Commissioner of Police as criminal intelligence for the purposes of this Act may not be disclosed to any person other than the Minister, the Tribunal, a court or a person to whom the Commissioner of Police authorises its disclosure.
- (2) If the Commissioner of Police, the Tribunal or a court—
 - (a) makes a decision under this Act; and
 - (b) the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence,the Commissioner of Police, the Tribunal or the court (as the case requires) is not required to provide any grounds or reasons for the decision other than that it would be contrary to the public interest if the person were to carry on business as a prescribed scrap metal dealer.
- (3) In any proceedings relating to this Act, the Tribunal or the court determining the proceedings—
 - (a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in the absence of the parties to the proceedings and their representatives; and
 - (b) may take evidence consisting of, or relating to, information that is so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.
- (4) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence for the purposes of this Act except to a Deputy Commissioner or Assistant Commissioner of Police.

Part 2—Prescribed scrap metal dealers

9—Disqualification from carrying on business of buying and selling prescribed scrap metal

- (1) A person must not carry on a business buying and selling prescribed scrap metal if the person is disqualified under this Act from doing so.
Maximum penalty: \$50 000.
- (2) A person is disqualified from carrying on a business of buying and selling prescribed scrap metal if—
 - (a) the person is, or was at any time within the preceding 5 years, a member of a prescribed organisation; or
 - (b) the person is, or was at any time within the preceding 5 years, a close associate of a member of a prescribed organisation or a person subject to a control order under the *Serious and Organised Crime (Control) Act 2008*; or
 - (c) the person is found guilty, or has within the preceding 10 years been found guilty, of an offence prescribed by the regulations for the purposes of this section; or
 - (d) the person is an undischarged bankrupt or subject to a composition or deed or scheme of arrangement for the benefit of creditors; or
 - (e) the person has, during the preceding 5 years, been a director of a body corporate wound up for the benefit of creditors—
 - (i) when the body was being so wound up; or
 - (ii) within the period of 6 months preceding the commencement of the winding up.
- (3) The Commissioner of Police may, by notice in writing served personally (a **disqualification notice**), disqualify a person from carrying on a business of buying and selling prescribed scrap metal if the Commissioner of Police believes, on reasonable grounds—
 - (a) that the person—
 - (i) has been in possession of stolen prescribed scrap metal on at least 3 separate occasions during the previous 12 months; and
 - (ii) did not, on any of those occasions, notify a police officer in respect of the prescribed scrap metal under section 18; or
 - (b) that such an action is appropriate for the purpose of averting, eliminating or minimising a risk, or a perceived risk, to the safety of members of the public; or
 - (c) that to allow the person to deal in prescribed scrap metal, or to continue to deal in prescribed scrap metal, would otherwise not be in the public interest.
- (4) A disqualification notice has effect from the date specified in the notice and continues in force—
 - (a) indefinitely; or

- (b) for the period specified in the notice; or
 - (c) until the notice is revoked in accordance with this or any other Act,whichever is the sooner.
- (5) Subject to this section, a disqualification notice given by the Commissioner of Police—
 - (a) must state the ground or grounds on which the notice has been given; and
 - (b) must contain a statement advising the recipient that they are entitled to seek a review of the Commissioner of Police's decision to give the notice in accordance with this Act; and
 - (c) must contain such other information as may be required by the regulations.
- (6) A statement of the grounds on which a disqualification notice has been issued must not contain information that is classified by the Commissioner of Police as criminal intelligence (however a failure to comply with this subsection does not invalidate a disqualification notice).

10—Interim disqualification

- (1) The Commissioner of Police may, by notice in writing served personally (an *interim disqualification notice*) and in accordance with any requirements in the regulations, disqualify a person from carrying on a business buying and selling prescribed scrap metal if the Commissioner of Police believes on reasonable grounds—
 - (a) that the person—
 - (i) has been in possession of stolen prescribed scrap metal on at least 3 separate occasions during the previous 12 months; and
 - (ii) did not, on any of those occasions, notify a police officer in respect of the prescribed scrap metal under section 18; and
 - (b) that a disqualification notice is likely to be given to the person under section 9(3); and
 - (c) that it is not in the public interest for the person to deal in prescribed scrap metal, or to continue to deal in prescribed scrap metal, during the period of the interim disqualification.
- (2) An interim disqualification notice has effect from the date specified in the notice and continues in force—
 - (a) for the period specified in the notice (not exceeding 30 days); or
 - (b) until the notice is revoked; or
 - (c) until the person on whom the notice is served is disqualified under section 9,whichever is the sooner.
- (3) Subject to this section, an interim disqualification notice—
 - (a) must state the ground or grounds on which the notice has been given; and
 - (b) must contain a statement advising the person to whom it is given that they are entitled to seek a review of the Commissioner of Police's decision to give the notice in accordance with this Act; and

- (c) must contain such other information as may be required by the regulations.
- (4) A statement of the grounds on which an interim disqualification notice has been issued must not contain information that is classified by the Commissioner of Police as criminal intelligence (however a failure to comply with this subsection does not invalidate an interim disqualification notice).
- (5) The Commissioner of Police must not give an interim disqualification notice within 30 days of the expiry of a previous interim disqualification notice.

11—Notification of intention to carry on business etc

- (1) A person who proposes to commence to carry on a business of buying and selling prescribed scrap metal must, at least 1 month before so commencing, give the Commissioner of Police written notice of that fact.
Maximum penalty: \$2 500.
- (2) A person who, on or after the commencement of this section, carries on a business buying and selling prescribed scrap metal must give the Commissioner of Police written notice of that fact—
 - (a) in the case of a person who is carrying on such a business immediately before the commencement of this section—within 1 month of the commencement of this section; or
 - (b) in any other case—within 1 month of commencing to carry on such a business.

Maximum penalty: \$2 500.

- (3) However, subsection (2) does not apply to a person, or persons of a class, prescribed by the regulations.
- (4) A notice under this section must—
 - (a) be made in a manner and determined by the Commissioner of Police; and
 - (b) contain such information as may be required by the regulations; and
 - (c) must be accompanied by the prescribed fee; and
 - (d) must comply with any other requirements set out in the regulations.

12—Notification of change of information

- (1) A person who provides information to the Commissioner of Police under section 11 must notify the Commissioner of Police of any change in the information so provided.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (2) A notification under subsection (1) must be made—
 - (a) in a manner and form determined by the Commissioner of Police; and
 - (b) as soon as is reasonably practicable (and in any case within 14 days) after the change.

13—Register

- (1) The Commissioner of Police must, in accordance with any requirements in the regulations, keep a register for the purposes of this Act consisting of the following parts:
 - (a) a part relating to persons who have given the Commissioner of Police notice of their intention to commence carrying on a business of buying and selling prescribed scrap metal under section 11(1);
 - (b) a part relating to persons who have given the Commissioner of Police notice that they are carrying on a business of buying and selling prescribed scrap metal under section 11(2);
 - (c) a part relating to persons who are disqualified from carrying on a business of buying and selling prescribed scrap metal under this Act.
- (2) To avoid doubt, the register may be kept in an electronic form.
- (3) The part of the register referred to in subsection (1)(a) must include, in relation to each person entered on the register—
 - (a) the person's full name, personal address and proposed business address (if any); and
 - (b) any other information required by the regulations,and may include other information as the Commissioner of Police thinks fit.
- (4) The part of the register referred to in subsection (1)(b) must include, in relation to each person entered on the register—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) any other information required by the regulations,and may include other information as the Commissioner of Police thinks fit.
- (5) The part of the register referred to in subsection (1)(c) must include, in relation to each disqualified person—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) in the case of a person to whom a disqualification notice applies—the expiry date (if any) of the disqualification notice; and
 - (c) any other information required by the regulations,and may include other information as the Commissioner of Police thinks fit.
- (6) The register may be inspected in accordance with the regulations (which may limit or prohibit access to the register or a specified part of the register).

Part 3—Dealing in prescribed scrap metal

14—Prohibition on certain forms of payment for prescribed scrap metal

- (1) A person must not, when buying prescribed scrap metal, pay for the prescribed scrap metal—
 - (a) in cash; or

- (b) by cheque payable to cash; or
- (c) with cryptocurrency; or
- (d) by a prepaid credit, debit or gift card (however described); or
- (e) in kind with goods or services.

Maximum penalty:

- (a) for an individual—\$10 000;
- (b) for a body corporate—\$25 000.

Expiation fee: \$500.

- (2) Subsection (1) does not apply to a purchase of prescribed scrap metal in circumstances prescribed by the regulations.

15—Prohibition on advertising certain forms of payment for prescribed scrap metal

- (1) A person must not advertise, or otherwise offer or indicate, that they are willing to pay for prescribed scrap metal—

- (a) in cash; or
- (b) by cheque payable to cash; or
- (c) with cryptocurrency; or
- (d) by a prepaid credit, debit or gift card (however described); or
- (e) in kind with goods or services.

Maximum penalty:

- (a) for an individual—\$2 500;
- (b) for a body corporate—\$25 000.

Expiation fee: \$210.

- (2) Subsection (1) does not apply in the circumstances prescribed by the regulations.

16—Records of certain prescribed scrap metal transactions

- (1) This section applies to the following transactions:

- (a) the sale of prescribed scrap metal to a prescribed scrap metal dealer (other than where the seller is also a prescribed scrap metal dealer);
- (b) any other transaction, or transactions of a class, prescribed by the regulations,

however, this section does not apply a transaction occurring in the circumstances prescribed by the regulations.

- (2) A prescribed scrap metal dealer must, in accordance with any requirements set out in the regulations, make and keep records in respect of each transaction to which this section applies.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) A prescribed scrap metal dealer must, in accordance with any requirements set out in the regulations, provide to the Commissioner of Police the information required by the regulations in respect of each transaction to which this section applies.

Maximum penalty: \$5 000.

Expiation fee: \$315.

17—Verification of identity

- (1) This section applies to the following transactions:
- (a) the sale of prescribed scrap metal to a prescribed scrap metal dealer (other than where the seller is also a prescribed scrap metal dealer);
 - (b) any other transaction, or transactions of a class, prescribed by the regulations, however, this section does not apply a transaction occurring in the circumstances prescribed by the regulations.
- (2) A prescribed scrap metal dealer must ensure that, in relation to each transaction to which this section applies, the prescribed scrap metal dealer verifies the identity of the seller in accordance with any requirements set out in the regulations.

Maximum penalty: \$5 000.

Expiation fee: \$315.

18—Duty to report and retain stolen prescribed scrap metal

- (1) If a prescribed scrap metal dealer reasonably suspects that prescribed scrap metal bought or received by them is stolen or has otherwise been unlawfully obtained, the prescribed scrap metal dealer—
- (a) must immediately notify a police officer of that suspicion; and
 - (b) must not, until the prescribed scrap metal dealer is given written notice under subsection (3)—
 - (i) sell or otherwise dispose of the prescribed scrap metal; or
 - (ii) alter the form of the prescribed scrap metal.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A notification under subsection (1)(a)—
- (a) must be in a manner and form determined by the Commissioner of Police; and
 - (b) must contain the information prescribed by the regulations.
- (3) A police officer who receives notification from a prescribed scrap metal dealer under this section must ensure that the prescribed scrap metal dealer is given written notice acknowledging receipt of the notification.
- (4) A police officer who reasonably suspects that prescribed scrap metal in the possession of a prescribed scrap metal dealer is stolen may, by notice in writing, direct the prescribed scrap metal dealer—
- (a) not to sell or otherwise dispose of the prescribed scrap metal; or

- (b) not to alter the form of the prescribed scrap metal.
- (5) A direction under subsection (4) takes effect from the time it is given to the prescribed scrap metal dealer and has effect for the period specified in the notice (not exceeding 14 days).
- (6) A person who, without reasonable excuse, contravenes a direction under subsection (4) is guilty of an offence.
Maximum penalty: \$50 000.

Part 4—Enforcement

Division 1—Authorised officers

19—Authorised officers

- (1) The following persons are authorised officers for the purposes of this Act:
 - (a) police officers;
 - (b) a person, or a class of persons, authorised by the Commissioner of Police to be an authorised officer for the purposes of this Act.
- (2) An authorisation under subsection (1)(b) may be made subject to conditions or limitations specified in the instrument of authorisation.
- (3) An authorised officer under subsection (1)(b) must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer under this Act.
- (4) If the powers of an authorised officer under subsection (1)(b) have been limited by conditions, the identity card issued to the authorised officer must indicate those conditions.
- (5) An authorised officer (other than a police officer in uniform) must, at the request of a person in relation to whom the authorised officer intends to exercise powers under this Act, produce for inspection their identity card or other evidence of their authority.
- (6) The Commissioner of Police may, by notice in writing to the authorised officer, vary or revoke an authorisation under subsection (1)(b), or a condition or limitation of such an authorisation, on any grounds the Commissioner of Police thinks fit.

20—Powers of authorised officers

- (1) Subject to this section, an authorised officer may at any time—
 - (a) enter any premises, vehicle or vessel for the purposes of ascertaining whether the provisions of this Act are being complied with or have been contravened; and
 - (b) if reasonably necessary for that purpose, break into or open any part of the premises, vehicle or vessel, or anything in or on the premises, vehicle or vessel; and
 - (c) for the purposes of paragraph (a) or (b), require the driver of any vehicle or the master of any vessel to stop that vehicle or vessel.

- (2) While an authorised officer is in or on any premises, vehicle or vessel pursuant to this section, the authorised officer may do 1 or more of the following:
- (a) inspect or search the premises or any equipment or other thing on the premises, vehicle or vessel;
 - (b) require any person to produce any books, papers or documents (including a written record that reproduces, in an understandable form, information stored electronically or by any other process) or any thing;
 - (c) require any person in or on the premises, vehicle or vessel to provide the officer with their full name and residential address;
 - (d) examine any books, papers or documents (including a written record that reproduces, in an understandable form, information stored electronically or by any other process) and take extracts from any of them or make copies of any of them;
 - (e) examine any thing;
 - (f) take and remove from the premises, vehicle or vessel samples of any thing;
 - (g) carry out any tests;
 - (h) take any photographs or films or make any audio or audiovisual record;
 - (i) if the authorised officer suspects on reasonable grounds that an offence against this Act has been committed, seize and remove from the premises anything that the authorised officer has reasonable cause to suspect affords evidence of the offence;
 - (j) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is required for the administration or enforcement of this Act—
 - (i) to answer questions in relation to those matters; or
 - (ii) to attend at a specified place at a specified time and answer questions in relation to those matters;
 - (k) give such directions as are reasonably necessary for, or incidental to, the effective exercise of the officer's powers under this Act.
- (3) An authorised officer may not exercise the power of entry conferred by this section in relation to residential premises except—
- (a) with the consent of the occupier of the premises; or
 - (b) on the authority of a warrant issued by a magistrate; or
 - (c) if there are reasonable grounds to suspect that the premises are used on a continuing or regular basis for, or in connection with, carrying on a business of buying and selling prescribed scrap metal.
- (4) A magistrate must not issue a warrant under subsection (3) unless satisfied, on information given on oath—
- (a) that there are reasonable grounds for suspecting that an offence against this Act has been, is being, or is about to be, committed; and
 - (b) that a warrant is reasonably required in the circumstances.

- (5) An application for the issue of a warrant under this section—
 - (a) may be made either personally or by telephone; and
 - (b) must be made in accordance with any procedures prescribed by the regulations.

21—General provisions relating to exercise of powers

- (1) Nothing in this Division derogates from—
 - (a) the power of a police officer to do anything pursuant to a general search warrant issued under the *Summary Offences Act 1953*; or
 - (b) any other power a police officer may have under the *Summary Offences Act 1953* or any other Act or law.
- (2) An authorised officer may, in exercising powers under this Division, be accompanied by such persons as the authorised officer considers necessary or desirable in the circumstances.
- (3) A person who—
 - (a) hinders or obstructs an authorised officer, or a person accompanying an authorised officer, in the exercise of the powers conferred by this Division; or
 - (b) refuses or fails to comply with a requirement made under this Division,is guilty of an offence.
Maximum penalty: \$5 000.

Part 5—Review of certain decisions

22—Review of certain decisions

- (1) A person who is dissatisfied with a decision of the Commissioner of Police under this Act (other than a decision under section 19) may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) Subject to subsection (3), an application for review must be made within 28 days of the making of the relevant decision.
- (3) Subject to section 8—
 - (a) the Commissioner for Police must, if so required by the person seeking review under subsection (1), state in writing the reasons for the decision or direction in relation to which the review is sought; and
 - (b) if the reasons of the Commissioner of Police are not given in writing at the time of the decision and the person (within 1 month of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

Part 6—Miscellaneous

23—False or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, under this Act.

Maximum penalty: \$20 000.

24—Statutory declaration

If a person is required to provide information to the Commissioner of Police under this Act, the Commissioner of Police may require the information to be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Commissioner of Police.

25—Liability for act or omission of officer, employee or agent

For the purposes of this Act, an act or omission of an officer, employee or agent of a person carrying on a business will be taken to be an act or omission of that person unless it is proved that the officer, employee or agent acted outside the scope of their usual and ostensible authority.

26—Offences by bodies corporate

- (1) If a body corporate is guilty of an offence against section 9(1) each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the director proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.
- (2) If a body corporate is guilty of any other offence against this Act (other than an offence against the regulations), each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—
 - (a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
 - (b) the director was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
 - (c) the director failed to exercise due diligence to prevent the commission of the offence.
- (3) The regulations may make provision in relation to the criminal liability of a director of a body corporate that is guilty of an offence against the regulations.

27—Self-incrimination

If a person is required to answer a question, or to provide information or to produce a document, record or equipment, under this Act and the answer, information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless answer the question, or provide the information or produce the document, record or equipment, but the answer, information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings (other than for an offence against this or any other Act relating to the provision of false or misleading information).

28—Limitation of liability etc

- (1) No compensation or other payment is payable to a person with respect to the disqualification of the person as a prescribed scrap metal dealer under this Act.
- (2) No civil or criminal liability attaches to the Crown, the Commissioner of Police or a person performing functions under this Act in respect of an act or omission in good faith in the performance, or purported performance, of a function under this Act.

29—Annual report

- (1) The Commissioner of Police must, on or before 31 October in each year, submit to the Minister a report on the operation of this Act during the period of 12 months ending on the preceding 30 June.
- (2) The Minister must, within 6 sitting days after receipt of the report, cause a copy of the report to be laid before each House of Parliament.

30—Evidentiary

In any legal proceedings, a certificate purporting to have been signed by the Commissioner of Police and certifying—

- (a) that on a specified day, or during a specified period, a person was, or was not, disqualified from carrying on a business of buying or selling prescribed scrap metal under this Act; or
 - (b) that a specified item is, or is not, comprised primarily of copper; or
 - (c) that a specified item is, or is not, a catalytic converter; or
 - (d) that a specified item is, or is not, a prescribed water meter; or
 - (e) that a specified item is, or is not, a prescribed hot water system; or
 - (f) that a specified item is, or is not, a prescribed electrical fixture or fitting; or
 - (g) that a specified item is, or is not, a prescribed rail fixture or fitting,
- constitutes proof of the matters so certified in the absence of proof to the contrary.

31—Confidentiality

- (1) Subject to this Act, a person engaged or formerly engaged in the administration, operation or enforcement of this Act must not disclose personal information obtained (whether by that person or otherwise) in the course of performing functions or exercising powers under this Act except—
- (a) as required or authorised by or under this Act or any other Act or law; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in connection with the administration or enforcement of this or any other Act; or
 - (d) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
 - (e) if the disclosure is reasonably necessary for the protection of the lawful interests of that person.

Maximum penalty: \$10 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
- (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

- (4) The regulations may make further provision in respect of the disclosure of information obtained in the course of the administration of this Act.

32—Victimisation

- (1) A person commits an act of victimisation against another person (the *victim*) if the person causes detriment to the victim on the ground, or substantially on the ground, that the victim—
- (a) has disclosed or intends to disclose information; or
 - (b) has made or intends to make an allegation,
- that has given rise, or could give rise, to proceedings against the person under this Act.
- (2) An act of victimisation under this Act may be dealt with—
- (a) as a tort; or
 - (b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*, but, if the victim commences proceedings in a court seeking a remedy in tort, the victim cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, the victim cannot subsequently commence proceedings in a court seeking a remedy in tort.

- (3) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.
- (4) In this section—
detriment includes—
 - (a) injury, damage or loss; and
 - (b) intimidation or harassment; and
 - (c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; and
 - (d) threats of reprisal.

33—Regulations and fee notices

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) exempt (conditionally or unconditionally) classes of persons or activities from the application of this Act or specified provisions of this Act; and
 - (b) require prescribed scrap metal dealers to comply with a specified code of conduct or practice; and
 - (c) impose a penalty, not exceeding \$10 000, for contravention of a regulation; and
 - (d) fix expiation fees, not exceeding \$1 000, for alleged offences against the regulations.
- (3) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (c) make provisions of a saving or transitional nature consequent on the enactment of this Act, the commencement of specified provisions of this Act or the making of regulations under this Act; and
 - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Commissioner of Police or another specified entity; and
 - (e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or another specified entity.
- (4) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (5) A fee notice may provide for the waiver, reduction or remission of fees.

- (6) If a code, standard or other document is referred to or incorporated in the regulations—
 - (a) a copy of the code, standard or other document must published on a website determined by the Minister; and
 - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

34—Review of Act

- (1) The Minister must cause a review of the operation of this Act to be conducted, and a report on the review to be prepared and submitted to the Minister, after this Act has been in operation for a period of 1 year.
- (2) The Minister must cause a copy of a report submitted under subsection (1) to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2025	71	<i>Scrap Metal Dealers Act 2025</i>	4.12.2025	uncommenced