

LOCAL GOVERNMENT (DISTRICT COUNCILS) ACT
(Cap. 40:01)

**CENTRAL DISTRICT COUNCIL (SCRAP METAL AND SCRAP-YARD
CONTROL) BYE-LAWS, 2010**
(Published on 5th February, 2010)

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BYE-LAW

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SCHEDULE

IN EXERCISE of the powers conferred by section 33 of the Local Government (District Councils) Act, and with the approval of the Minister of Local Government, the Central District Council hereby makes the following Bye-laws —

1. These Bye-laws may be cited as the Central District Council (Scrap Metal and Scrap-yard Control) Bye-laws, 2010. Citation
2. These Bye-laws shall apply to the whole area of the Central District Council as defined under the Administrative Districts Act. Application
Cap. 03:02
3. (1) In these Bye-laws, unless the context otherwise requires — Interpretation
“bye-law enforcement officer” means a local Government officer serving in the Council, appointed under the Unified Local Government Service Act, whose duties include giving effect to and enforcing these Bye-laws; Cap. 40:06
“Council” means the Central District Council;
“deal”, in relation to scrap metal, includes the buying or selling of scrap metal by way of business, whether as a principal or agent, but does not include an isolated transaction which involves the buying or selling of scrap metal;

“licence” means a license issued under bye-law 5;

“Licencing Authority” means the Council or any authorised officer, designated by the Council to issue licences in terms of these Bye-laws;

“scrap metal dealer” means a person who deals in scrap metal as a way of business and has been issued a licence in terms of bye-law 5;

“scrap metal” includes any old metal, second-hand metal, broken metal, defaced or old metal goods, such as plant machinery, whether ferrous or non-ferrous, or ferro-alloyed, but does not include gold, silver or metals of the platinoid group; and

“scrap-yard” means any premises at which scrap metal is assembled, sold, bought, stored, baled, reshaped, or otherwise altered in accordance with these bye-laws but does not include the storage of scrap metal under bye-law 14 (2).

Application
for licence

4. A person wishing to carry on the business of a scrap metal dealer shall make an application to the Licencing Authority in Form A1 set out in the Schedule, accompanied by —

- (a) certified copies of the applicant’s national identity card (Omang) or passport if the applicant is a non-citizen; and
- (b) two identical passport size photographs of the applicant, (taken at the time of the application), on which his or her features are clearly and correctly depicted;
- (c) a title deed of the applicant’s plot; or
- (d) if the applicant intends to operate from leased premises, a certified copy of the lease agreement.

Issue of
licence

5. (1) The Licencing Authority may, if satisfied that requirements of these Bye-laws are met, and on payment of a fee of P200, issue a scrap metal dealer’s licence in Form A2 set out in the Schedule.

(2) A licence issued under subbye-law (1) shall specify —

- (a) the person licenced to deal in scrap metal;
- (b) the situation of all the scrap-yards at which the licenced scrap metal dealer is authorised to deal in scrap metal;
- (c) any particular scrap metal which the licenced scrap metal dealer may or may not deal in; and
- (d) any other condition that the Licencing Authority may determine.

(3) Notwithstanding the provisions of subbye-law (1), the Licencing Authority may refuse to issue a scrap dealer’s licence to an applicant if —

- (a) the applicant has been convicted of an offence under these Bye-laws, at any time in the three years immediately preceding the application; or
- (b) the scrap-yard is, in the opinion of the Council, unsuitable for dealing in scrap metal.

(4) A licence issued under subbye-law (1) shall expire at the end of a period of 12 months from the date of issue.

Renewal of
licence

6. (1) A licenced scrap metal dealer may, within six months before the expiration of the licence, make an application to the Licencing Authority, for the renewal of the licence.

(2) An application under subbye-law (1) shall be made in Form A3 set out in the Schedule and shall be accompanied by a fee of P200.

(3) The Licencing Authority may grant the renewal of the licence subject to such conditions that the Licencing Authority may determine.

(4) Notwithstanding the provisions of subbye-law (3), the Licencing Authority may refuse to renew a licence to any person, where the Licencing Authority is satisfied that the renewal of the licence would not be in the public interest.

7. (1) The Licencing Authority may, upon being satisfied that a licence issued in terms of these Bye-laws has been lost or destroyed, issue a duplicate licence on payment of a fee of P10.

Issuance of duplicate licence

(2) Where a licence which had been lost and replaced is recovered, the licenced scrap metal dealer may return the duplicate licence to the Licencing Authority.

8. (1) A licence issued under these Bye-laws shall not be transferable without the consent of the Council.

Licence not transferable

(2) A licenced scrap metal dealer who attempts to transfer his or her licence to another person, without the consent of the Council, commits an offence and upon conviction, shall be liable to a fine not exceeding P2000, or to imprisonment to a term not exceeding two months, or to both.

9. (1) A licenced scrap metal dealer shall exhibit, and keep exhibited, in a prominent place at the scrap-yard, the licence.

Display, inspection of licence

(2) A licenced scrap metal dealer shall, on demand by a bye-law enforcement officer, immediately produce such licence for inspection at the Council offices.

10. (1) The Licencing Authority may suspend a licence issued under bye-law 5, if the conditions of the licence have not been complied with, or the continued use of the licence constitutes a danger to public health.

Suspension of licence

(2) A licence which has been suspended under subbye-law (1) shall continue for such period as the Licencing Authority may determine to enable the scrap metal dealer to take remedial action so as to comply with such conditions of the licence, and with such requirements designed to remove the danger to public health as the Licencing Authority may specify.

11. A licence issued under these Bye-laws may be revoked where —

Revocation of licence

- (a) the holder transfers the licence without the consent of the Council;
- (b) the holder is convicted of an offence under these Bye-laws;
- (c) in the opinion of the Council, the scrap-yard has become unsuitable for dealing in scrap metal; or
- (d) the licence or application for renewal of the licence was obtained by fraud or misrepresentation or non-disclosure of any material fact.

12. (1) Every licenced scrap metal dealer shall display, in front of the scrap-yard, and legible from a distance of 200 metres from the scrap-yard, a notice board —

Notice board to be erected by licenced scrap metal dealer

- (a) reading, "Licenced Scrap Metal Dealer"; and
- (b) measuring 4 metres by 4 metres.

(2) A licenced scrap metal dealer who fails to comply with the provisions of subbye-law (1), commits an offence and is liable, to a fine not exceeding P2000, or to a term of imprisonment not exceeding two months, or to both.

13. (1) A licenced scrap metal dealer shall, within one month of being issued a licence, prepare in duplicate, a detailed register in Form A4 set out in the Schedule.

Register to be kept by licenced scrap metal dealer

(2) The details in the register shall be entered in either English or Setswana and must describe —

- (a) each variety of scrap metal, including the weight or dimensions as well as the general descriptions of the scrap metal;
- (b) the names and addresses of persons who purchased or received scrap metal from the licenced scrap metal dealer;
- (c) the date and time of such purchase or receipt of the scrap metal; and
- (d) the price paid for the purchase of such scrap metal.

(3) Every entry required to be made in the register kept under subbye-law (1), shall be made within 24 hours from the time the transaction took place and the licenced scrap metal dealer shall require every party to such transaction to sign or affix his or her thumbprint.

(4) The licenced scrap metal dealer shall sign the duplicate of the register and send it to the Council, within one month of entering the details into the register, through the post or by hand.

(5) A licenced scrap metal dealer who fails to comply with the requirements of this bye-law, commits an offence and is liable —

- (a) to a fine not exceeding P2000 or to imprisonment for a term not exceeding two months, or to both; and
- (b) where such offence continues after conviction, to a fine not exceeding P100 for each day on which the offence continues, but the fine shall not exceed P2000.

Restriction on dealing in scrap metal by licencing scrap metal dealer

14. (1) A licenced scrap metal dealer shall not deal in scrap metal —

- (a) except between the hours of 0730 and 1700;
- (b) with any person under the age of 18 years; or
- (c) with any person who fails to show proper identity documents to the scrap metal dealer.

(2) A licenced scrap metal dealer shall not deal in or store any scrap metal elsewhere than in the scrap-yard specified in the licence, unless written permission is obtained from the Council to deal in or store scrap metal on any other premises.

(3) A licenced scrap metal dealer who contravenes any of the provisions of this bye-laws, commits an offence.

Restriction on disposing or changing form of scrap metal

15. (1) A licenced scrap metal dealer shall not dispose of or disfigure, or in any way change the form or shape of any scrap metal within 15 days, or in the case of ferrous scrap metal, within seven days of acquiring or taking possession of the scrap metal, without the written consent of the Council.

(2) A licenced scrap metal dealer who contravenes the provisions of subbye-law (1), commits an offence.

Powers of entry

16. (1) A bye-law enforcement officer may, at any reasonable time, enter and inspect any scrap-yard for the purpose of ensuring that the condition of the scrap-yard and the operation of the business complies with the provisions of these Bye-laws and the conditions of the licence issued under bye-law 5.

(2) The bye-law enforcement officer may —

- (a) inspect any record, register and books of accounts kept by the licenced scrap metal dealer; and
- (b) request any person employed at the scrap-yard to furnish information or verify information regarding the running of the scrap-yard.

(3) Where a bye-law enforcement officer reasonably believes that a crime has been or is about to be committed at any scrap-yard, such bye-law enforcement officer may enter the scrap-yard without a warrant to search for any offending items and may seize such items immediately.

(4) A person who obstructs or hinders a bye-law enforcement officer in the exercise of his or her powers under this bye-law, or who fails to furnish information requested by such bye-law enforcement officer, commits an offence.

17. Where an offence under these Bye-laws is committed by a company, cooperative society or other body of persons, corporate or incorporate, is proven to have been committed with the consent or knowledge of, or to have been facilitated by any neglect on the part of any director, chairperson, manager, company secretary or other officer of the company, cooperative society or body of persons, such director, chairperson, manager, company secretary or other officer, shall be deemed to have committed the offence and shall be liable to be tried for such offence.

Liability of officer of corporate body, etc.

18. (1) A person who contravenes the provisions of these Bye-laws, commits an offence and is liable, where no penalty has been provided for such offence —

Offences

- (a) for a first offence, to a fine not exceeding P2000, or to a term of imprisonment not exceeding two months, or to both; and
- (b) where such offence continues after conviction, to a fine not exceeding P100 for each day on which the offence continues, but the fine shall not exceed P2000.

(2) A person who is convicted of an offence under these Bye-laws may, in addition to any penalty to which he or she may be liable, have his or her licence cancelled with effect from such date as the Council may consider necessary.

19. (1) A person aggrieved by any decision of the Council under these Bye-laws, may within 30 days of such decision, give notice of appeal, in writing, to the Council, and shall set out the grounds of the appeal in such notice.

Appeals

(2) On receipt of the notice of appeal under subbye-law (1), the Council shall, within ten days, refer the appeal to the Minister, who shall confirm, set aside or vary the decision.

SCHEDULE

Form A1

APPLICATION FOR SCRAP METAL DEALER'S LICENCE
(bye-law 4)

1. SCRAP-YARD

Location of the scrap-yard:

2. PARTICULARS OF APPLICANT

(a) Business names

Name and Address	Business name
.....
.....

(b) For companies

(c) Registered name of company.....

(d) Trading name of company if different from (i)

3. PARTICULARS OF SCRAP-YARD

(a) Plot number or Land Board certificate number

(b) Date of plot allocation:.....

(c) Is the plot zoned commercial/industrial?

(d) If the plot is leased, state the name of the owner and date of lease agreement (certified copy required):.....

4. GENERAL INFORMATION

(a) Have you been convicted in the last 3 years of any offence involving dishonesty?

(b) If so, give particulars of each conviction:

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

I certify that the information supplied in my application is true to the best of my knowledge and belief.

Date: Applicant's Name:

.....
Signature

For official use only:

Application received by:

(Name):

(Designation):

OFFICIAL STAMP:

Form A2

SCRAP METAL DEALER'S LICENCE
(bye-law 5)

NOT TRANSFERABLE

Licence No.....issued

on.....under the provisions of bye-law 5 of the
Central District Council (Scrap Metal and Scrap-yard Control) Bye-laws, 2010.

To :.....(name and company) the said licence holder is
hereby licenced to carry on the business of scrap metal dealer trading at (location of scrap-yard)
..... for the period from to.....unless renewed.

Applicant's Signature: Licencing officer (signature):

Applicant's Name: Licencing officer's name:

Date:

Date:

OFFICIAL STAMP

Form A3

RENEWAL OF LICENCE
(bye-law 6 (2))

APPLICATION FOR RENEWAL OF SCRAP METAL DEALER'S LICENCE

(1) Applicant for renewal of licence to complete the following:

(a) Name:

(b) Address:

(c) Location of scrap-yard:

(2) Conditions applicable:
.....
.....

Date:

Licencing officer (signature):

Licencing officer's name:

OFFICIAL STAMP:

Licensed scrap metal dealer's signature:

Date:

MADE this 20th day of January, 2010.

M.E. MACHENG,
Council Secretary,
Central District Council.

APPROVED this 26th day of January, 2010.

L.T. MOKALAKE,
Minister of Local Government.

AGC 5/2/3 10 I (24)