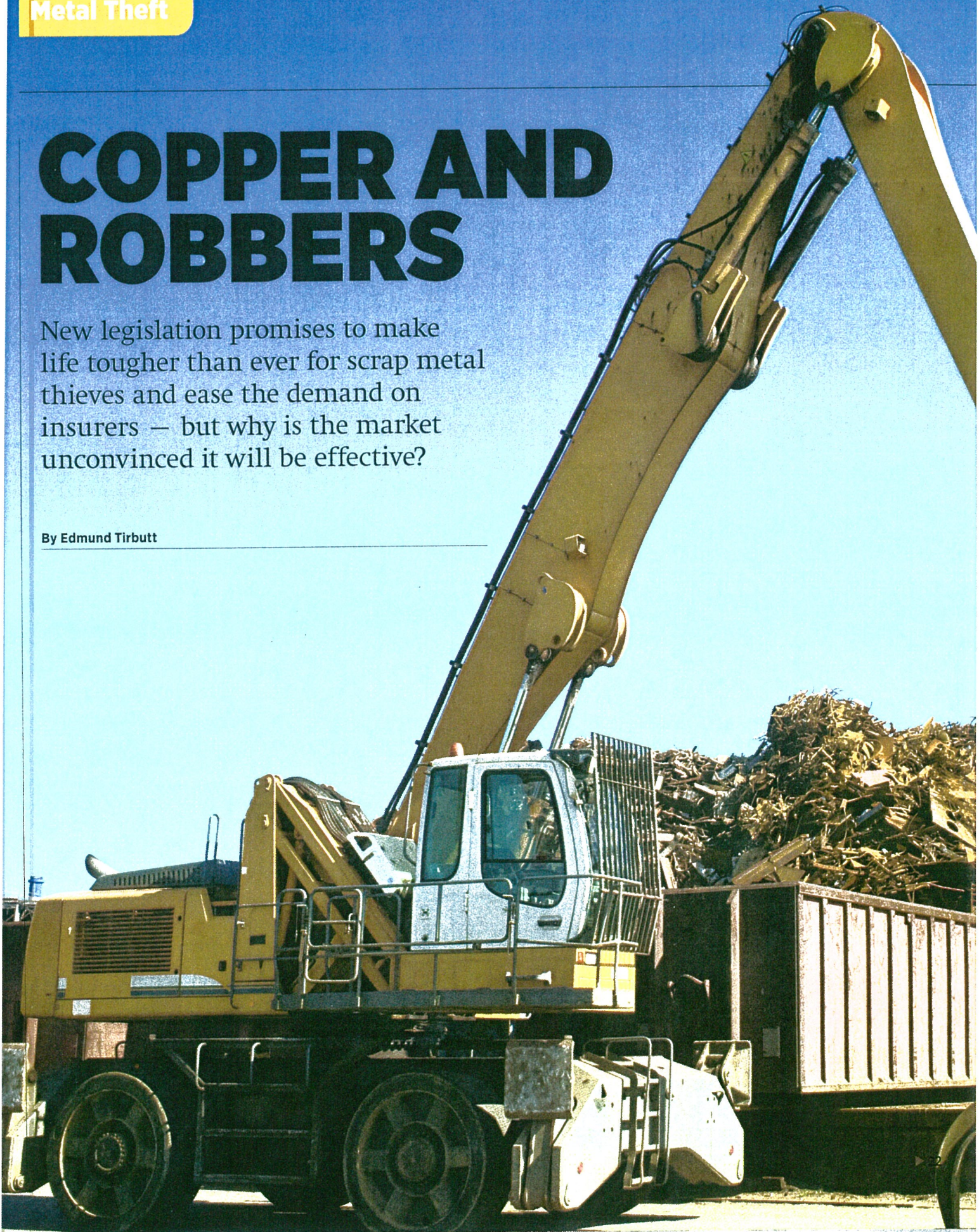


Metal Theft

COPPER AND ROBBERS

New legislation promises to make life tougher than ever for scrap metal thieves and ease the demand on insurers — but why is the market unconvinced it will be effective?

By Edmund Tirbutt



Will the regulation drive the trade in metal underground?

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The *Scrap Metal Dealers Act 2013*, which received Royal Assent this February, could have significant implications for commercial insurers and for society as a whole by helping combat the burgeoning problem of metal theft. According to the Association of British Insurers, the crime costs the UK economy £770m a year and around 1000 theft incidents occur per week, approximately double the number five years ago.

Metal theft has assumed a new dimension since worldwide demand for metal – particularly copper, lead and steel – started soaring as a result of the infrastructure needed for the 2008 Beijing Olympics. From the disappearance of manhole covers and lead on church roofs to BT cabling stripped out a mile at a time, virtually anything with a significant scrap metal content has proved vulnerable.

Norfolk Constabulary refers to theft of overflow pipes from downstairs lavatories, while Allianz Insurance reports a major problem with catalytic converters in vehicle exhaust systems – particularly with 4x4s and commercial vehicles that provide sufficient space for thieves to crawl under and seize the exhaust.

Material damage is often outweighed by consequential loss. HSB Engineering Insurance estimates around 30% of claims are for materials and about 70% for business interruption or loss of profits. Paul Redington, real estate property claims manager at Zurich Insurance, says: “The cost of replacing the metal can be dwarfed by collateral damage such as water leaking from damaged roofs and ruptured pipework. I’ve even come across a gas explosion. Metal theft from empty properties has led to a 2500% increase in the cost of this type of insurance claim in our book since 2004.

“If premises are not properly inspected it can increase the costs via worsening damage, and some gangs even lock themselves in for several weeks while stripping out the metal. We recommend proper security and regular internal and external inspection of unoccupied premises.”

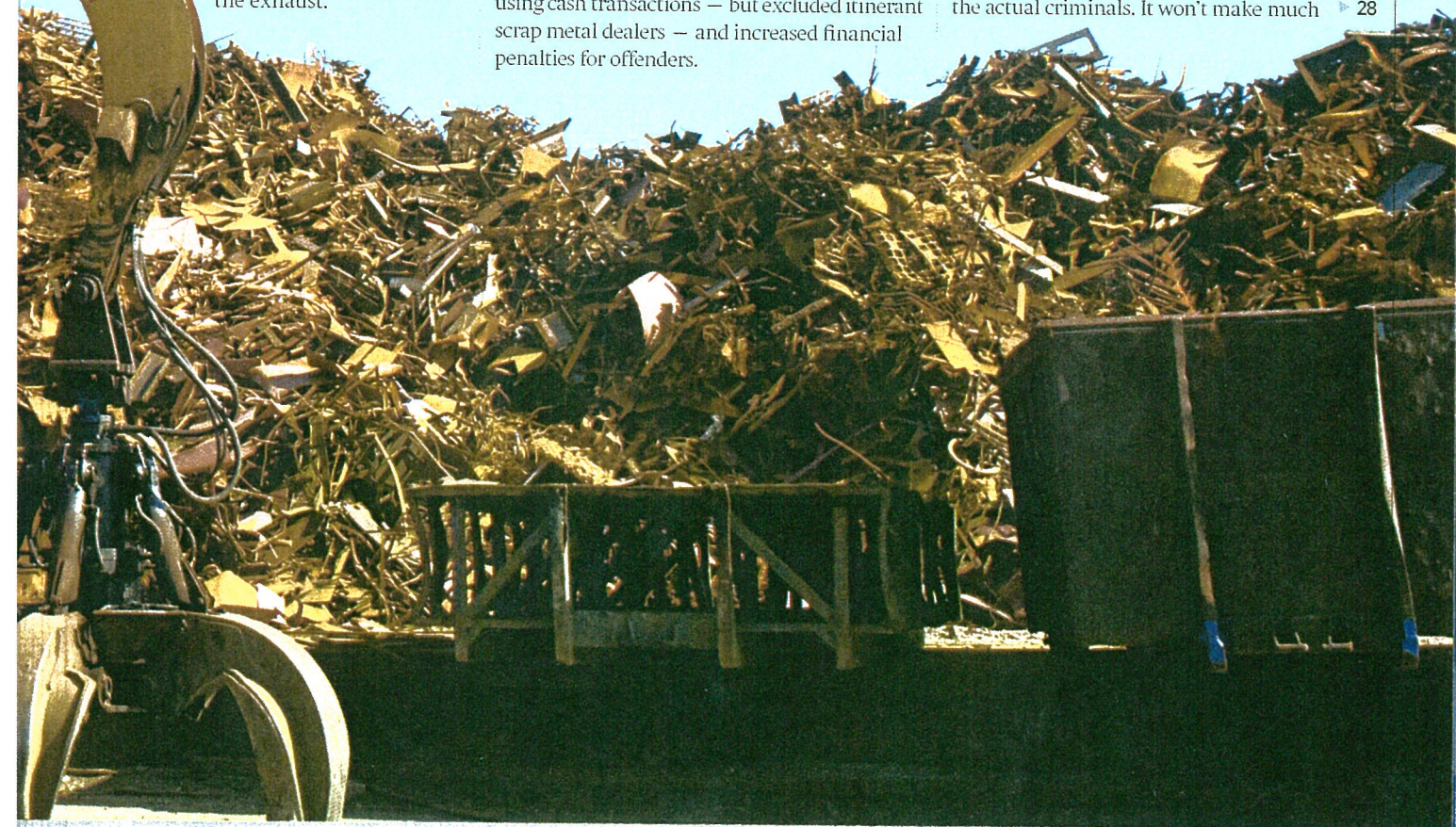
In addition, distasteful incidents such as the removal of memorial plaques have proved highly emotive, as have the delays experienced by rail commuters due to cable theft. The new legislation, aimed at tackling such problems, will regulate the scrap metal industry more tightly and increase police powers.

The first changes to the original *Scrap Metal Dealers Act 1964* were introduced on 3 December 2012 via the *Legal Aid, Sentencing and Punishment of Offenders Act*. This banned scrap metal dealers from using cash transactions – but excluded itinerant scrap metal dealers – and increased financial penalties for offenders.

The *Laspo* measures were then replaced by the *Scrap Metal Dealers Act 2013*, which received Royal Assent on 28 February and will come into force on a day to be nominated by the Secretary of State – which informal indications from the Home Office suggest will be 1 October. The new Act introduces a new licencing regime, requiring all scrap metal dealers to hold and display a licence and all sellers to provide proof of identity.

The consensus is that, if the measures are enforced effectively, it should be a difference maker. Andy Miller, technical risk control manager at Allianz Insurance, says: “We already have an early taster suggesting the Act will be successful because the *Operation Tornado* pilot project has proved metal theft claims can be reduced by 40% to 60% by requiring suitable identification. But *Tornado* had the full support of the enforcing authorities and, for any piece of legislation, it’s the enforcement that counts.”

Nevertheless, some commentators feel that by limiting penalties to fines the Act hasn’t gone far enough in terms of providing an effective deterrent. Philip Davies, MP for Shipley in West Yorkshire, says “I would like to see lengthy prison sentences because if someone is in jail they can’t nick metal. The Act is tackling the wrong problem and penalising legitimate activity when it should be punishing the actual criminals. It won’t make much ▶ 28



“27 difference, and the most likely scenario is it will send the trade underground. As far as I’m concerned it is a complete and utter nonsense and is just gesture politics. I’m as opposed to metal theft as anyone, but I want proper sentences.”

Other common criticisms of the new Act include the fact it only applies in England and Wales and doesn’t stop exportation to other parts of the world, yet organised gangs are increasingly shipping scrap metal to growing economies like China and elsewhere in the Far East. There are also loopholes that need to be addressed regarding the clampdown on cash payments.

Marie Irvine, principal of City-based Marie Irvine Solicitors, is concerned the provisions to make scrap metal dealers only pay by cheque or electronic transfer do not go far enough. Irvine says at least one large scrap metal dealer allows sellers to cash cheques on its premises. Although cheque-cashing companies require stringent proof of identity to comply with *Money Laundering Regulations*, the practice still makes such transactions harder to trace.

More importantly, the Act fails to specifically stipulate that electronic transfers need to be made between the dealer and seller’s bank account. This means dealers are selling a card to the scrap metal seller, who gives it back to the dealer to get it loaded with the cash equivalent of what the seller is owed. The seller then takes the card to an ATM to withdraw their money.

Irvine adds: “Some card companies use *Money Laundering Regulations* and require ID but I’ve found at least one that doesn’t. The seller could easily give a false name and address, and the transaction would be untraceable in the same way cash is. Many of the larger scrap metal dealers refer to cheque-cashing facilities that will only pay via a Visa debit card, which must be with a bank account, but they are realising they are at a commercial disadvantage and could conceivably change.”

No silver bullet

Even those broadly pleased with the Act’s measures believe it should not be seen as an all-encompassing solution. Aidan Kerr, assistant director of property and health at the ABI, explains: “It’s not a silver bullet because it’s merely one of many factors that impact on metal theft levels, the primary one being the trading price of commodities. Evidence shows the level of metal theft closely matches the price of traded metals such as copper and lead, and although these have been falling in recent months they still remain relatively high over a five-year period. Should they increase over

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the next year, we can expect metal thieves to be more determined to pursue illegal activity and we need a strong, collaborative approach to try to combat this.”

Kerr says more should be done to tackle organised crime and the illegal exporting of metal, including the use of security devices and forensic coding enabling material to be identified and recovered. In some sectors, these methods are already being used successfully. Ecclesiastical, for instance, has spent in excess of £600 000 on providing free risk management to Anglican churches, including distributing more than 100 roof alarms and more than 16 000 Smart Water kits — which contain a DNA-style forensic code enabling items to be irrefutably traced back to owners and linking criminals to the crime scene. The insurer says the number of claims for theft of lead and other metal from the exterior of Anglican church buildings fell from 2600 in 2011 to 930 in 2012 — the lowest level since 2006.

Utility companies have also reaped the rewards of a proactive risk-management approach and have collaborated with other organisations to pool resources. Network Rail, for example, works closely with BT, The Energy Networks Association and a variety of essential infrastructure providers.

Network Rail spokesman Rachel Lowe says: “The key has been not doing it on our own, and we have been fortunate in having our own private police force, the British Transport Police, which we share with the rail industry as a whole. The BTP has done a lot of work in targeting thieves, dealing with scrap metal dealers and providing us with intelligence.

“We have used a range of marking and target-hardening techniques. A lot more use has been made of CCTV and raising awareness of the issues has also paid dividends, with a quicker reporting

of incidents resulting from passengers and drivers keeping their ears to the ground.”

Meanwhile, companies that implement suitable risk-management strategies invariably derive insurance benefits, including discounts. HSB Engineering Insurance, for instance, provides premium discounts of 10% to 15% for effective security, and NIG reduces its rates by 20% to 25% for the right risks.

Excess effect

However, as metal theft is merely one of numerous types of potential claim, excesses are unlikely to be affected by risk-management provision or, indeed, by any improvement in claims experience that results from the Act. The fact many of those organisations worst affected by metal theft have huge excesses also limits the potential of the Act to reduce premiums.

Although excesses can be £100 to £1000 for small to mid-market commercial risks, with large corporates they can range from anything from between £200 000 to self-insurance of several million pounds via a captive. Even railways typically have excesses of £100 000.

Ian Thompson, partner at JLT, explains: “Most losses will be self-insured, as they will involve property damage and business interruption exposures of sub-£100 000. But, depending on the location, time of day and severity of theft, it is actually possible to see losses well in excess of this.”

However, the immediate impact of the Act on the cost of cover remains to be seen. Anglican churches will not see rates fall, with insurance prices remaining largely flat due to the support provided by Ecclesiastical — which insures 97% of such organisations. Elsewhere, however, the picture is less clear.

Miller says: “Companies that could have premiums reduced will be looked at on a case-by-case basis. It’s great that legislation has moved to the point of fruition, but it’s too early for us to relax security conditions. It’s something we’ll keep an eye on year-on-year.”

Nichola Evans, partner at law firm Browne Jacobson, concludes: “The impact of the Act on insurance will not be immediate, it is more likely to be a few years down the line when people see the first cases and sentences.”

She concludes: “It’s like the *Bribery Act*, for which cases are finally starting to come through and people are seeing how serious the consequences can be. I would hope to see insurance premiums come down as a result of the *Scrap Metal Dealers Act* in around five years’ time, but by exactly how much will depend on the state of the market.”