

2019 No. 230

ROAD TRAFFIC

The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Scotland) Regulations 2019

Made - - - - 25th June 2019

Laid before the Scottish Parliament 26th June 2019

Coming into force - - 10th October 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 4(5) and (6), 5(1) and 10(1) of the Refuse Disposal (Amenity) Act 1978(a) and sections 101(4), (4A)(b)(ii), (5) and (5A)(b)(ii), 102(2) and 103(3) of the Road Traffic Regulation Act 1984(b) (“the 1984 Act”) and of all other powers enabling them to do so.

The Scottish Ministers have consulted with such representative organisations as they think fit in accordance with section 134(8) of the 1984 Act(c).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Scotland) Regulations 2019 and come into force on 10 October 2019.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the 1978 Act” means the Refuse Disposal (Amenity) Act 1978,

“the 1984 Act” means the Road Traffic Regulation Act 1984,

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- (a) 1978 c.3; section 4 was amended by sections 1(3) and 194, schedule 3 paragraph 15 and schedule 34 part III of the Local Government, Planning and Land Act 1980 (c.65); sections 4 and 5 were modified by the National Parks (Scotland) Act 2000 (asp 10), schedule 5, paragraph 6; “prescribed” is defined in section 11(1). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). There are other amendments not relevant to these Regulations.
- (b) 1984 c.27; section 101 has been amended by article 5 of S.I. 2001/1353 and section 67 of the Road Traffic Act 1991 (c.40); section 102 has been amended by sections 68 and 83 and schedule 8 of the Road Traffic Act 1991 (c.40), article 4 and schedule 1, paragraph 9 of S.S.I. 2013/119; section 103(3) was inserted by paragraph 33 of schedule 4 of the Road Traffic Act 1991 (c. 40); “prescribed” is defined in section 142. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Modifications to sections 101 and 102 have been made by various instruments made in exercise of the powers conferred by paragraphs 1(1), 2(1) and 3(3) of schedule 3 of the Road Traffic Act 1991(c.40). There are other amendments not relevant to these Regulations.
- (c) Section 134(8) was added by the Scotland Act 2016 (c.11) schedule 2(1), paragraph 12(5).

“the authority”—

- (a) in relation to a vehicle removed by a constable or other operator acting in aid of Police Scotland means the chief constable of the Police Service of Scotland,
- (b) in relation to a vehicle removed by a local authority or other operator acting in aid of a local authority means that local authority,

“laden” means that the vehicle is carrying a load,

“load” means anything which, in the reasonable opinion of the authority, complicates or impedes the removal of the vehicle other than—

- (a) the body and all parts of the vehicle which are necessary to or ordinarily used with the vehicle when working on a road,
- (b) any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle,
- (c) the driver, any passengers and their personal effects,
- (d) a crane, works truck as defined in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986(a), or other special appliance or apparatus which is a permanent or essentially permanent fixture of the vehicle, and
- (e) any containers or other equipment intended or adapted for the purpose of holding or carrying a load by the vehicle,

“MAM” means maximum authorised mass as defined in regulation 3(1) of the Motor Vehicles (Driving Licences) Regulations 1999(b) and, for the purposes of regulation 3, includes the MAM of any trailer attached to a vehicle,

“off road” means that no part of the vehicle is in contact with the road, or that, in the reasonable opinion of the authority, the vehicle’s location is such that removal of the vehicle is of comparable complexity to a vehicle that is not in contact with the road,

“on road” means that any part of the vehicle is in contact with the road, and that, in the reasonable opinion of the authority, the vehicle’s location is not such that removal of the vehicle is of comparable complexity to a vehicle that is not in contact with the road,

“operator” means any person lawfully removing the vehicle,

“road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984(c),

“significantly damaged” means that, in the reasonable opinion of the authority, there is significant damage to the vehicle such that it renders the removal of the vehicle complex,

“two wheeled vehicle” means a mechanically propelled vehicle constructed or adapted to have two wheels or fewer and the MAM of which does not exceed 3.5 tonnes,

“unladen” means that the vehicle is not carrying a load,

“upright” means that, in the reasonable opinion of the authority, the vehicle is upright to such an extent that its removal is not complicated or impeded,

“vehicle” means any motor vehicle and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle and anything attached to such a vehicle.

Specification of sums and charges etc.

3.—(1) The prescribed sums for the purposes of sections 4(5) and (6) of the 1978 Act and 101(4), (4A)(b)(ii), (5) and (5A)(b)(ii) of the 1984 Act, the prescribed charges for the purposes of sections 5(1)(a) of the 1978 Act and 102(2)(a) of the 1984 Act, the prescribed scale for the purposes of sections 5(1)(b) of the 1978 Act and 102(2)(b) of the 1984 Act, and the prescribed

(a) S.I. 1986/1078, to which there are amendments not relevant to these Regulations.

(b) S.I. 1999/2864, to which there are amendments not relevant to these Regulations.

(c) 1984 c.54. Section 151 was amended by section 168(1) and schedule 8, paragraph 94(b) of the New Roads and Street Works Act 1991 (c.22).

manner of determining charges for the purposes of sections 5(1)(c) of the 1978 Act and 102(2)(c) of the 1984 Act are as specified in—

- (a) paragraphs (2) and (3) in respect of the removal of a vehicle,
- (b) paragraph (4) in respect of the storage, custody or retention of a vehicle, and
- (c) paragraph (5) in respect of the disposal of a vehicle.

(2) Subject to paragraph (3), the amount for removal of a vehicle of the type and in the position and condition described in column 1 of the table in Part 1 of schedule 1, is the applicable amount specified in the corresponding entry in columns 2 to 5 of that table.

(3) There is added to the amount determined under paragraph (2)—

- (a) a charge of £1.10 for every mile that the operator is required to travel in excess of 40 miles (starting from, and ending at, its base of operations) in order to remove the vehicle and store, retain or hold it in custody, and
- (b) a charge of £125 for each journey the operator is required to make by ferry in order to remove the vehicle and store, retain or hold it in custody at its base of operations.

(4) The amount for each 24 hour period during which a vehicle of the type and MAM specified in column 1 of the table in Part 2 of schedule 1 is stored, in custody or retained, is the amount specified in the corresponding entry in column 2 of that table.

(5) The amount for the disposal of a vehicle of the type and MAM specified in column 1 of the table in Part 3 of schedule 1 is the amount specified in the corresponding entry in column 2 of that table.

(6) For the purposes of paragraph (4)—

- (a) the first 24 hour period begins at noon on the first day that the vehicle is retained at a place where it can be claimed before noon of that day, and
- (b) the amount is payable in respect of any part of a 24 hour period during which the vehicle is retained.

Revocations and saving

4.—(1) Subject to paragraph (2), the instruments specified in schedule 2 are revoked.

(2) In relation to vehicles removed prior to 10 October 2019, nothing in these Regulations has effect and the instruments mentioned in schedule 2 continue to have effect.

HUMZA YOUSAF
A member of the Scottish Government

St Andrew's House,
Edinburgh
25th June 2019

SCHEDULE 1

Regulation 3

Specification of sums and charges etc.

PART 1

Removal of a motor vehicle

Column 1	Column 2	Column 3	Column 4	Column 5
<i>Vehicle type, position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
Any two-wheeled vehicle whatever its condition or position on or off road	£190	–	–	–
Any other vehicle on road, which is upright and is not significantly damaged	£190	£250	£440	£440
Any other unladen vehicle on road which is not upright or is significantly damaged	£315	£820	£2525	£3790
Any other laden vehicle on road which is not upright or is significantly damaged	£315	£820	£3790	£5680
Any other unladen vehicle off road, which is upright and is not significantly damaged	£250	£505	£1260	£1890
Any other laden vehicle off road, which is upright and is not significantly damaged	£250	£505	£1890	£2525
Any other unladen vehicle off road which is not upright or is significantly damaged	£380	£1075	£3790	£5680
Any other laden vehicle off road which is not upright or is significantly damaged	£380	£1075	£5680	£7570

PART 2

Retention of a motor vehicle

Column 1	Column 2
<i>Type and MAM of vehicle</i>	<i>Amount for each 24 hour period</i>
Any two wheeled vehicle	£13
Any other vehicle equal to or less than 3.5 tonnes MAM	£25
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£32
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£38
Any other vehicle exceeding 18 tonnes MAM	£44

PART 3

Disposal of a motor vehicle

Column 1	Column 2
<i>Type and MAM of vehicle</i>	<i>Amount</i>
Any two wheeled vehicle	£63
Any other vehicle equal to or less than 3.5 tonnes MAM	£95
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£126
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£158
Any other vehicle exceeding 18 tonnes MAM	£189

SCHEDULE 2

Regulation 4

Revocations

1. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Regulations 1989 (S.I. 1989/744).
2. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Amendment) Regulations 1991 (S.I. 1991/336).
3. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Amendment) Regulations 1993 (S.I. 1993/550).
4. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Amendment) (No. 2) Regulations 1993 (S.I. 1993/1415).
5. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Amendment) (Scotland) Regulations 2005 (S.S.I. 2005/486).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Refuse Disposal (Amenity) Act 1978 (“the 1978 Act”) and the Road Traffic Regulation Act 1984 (“the 1984 Act”). They revoke and replace the instruments specified in schedule 2.

Section 3 of the 1978 Act requires a local authority to remove certain abandoned vehicles, section 4 enables the authority to dispose of such vehicles, and section 5 enables the authority to recover expenses in connection with removed vehicles.

Section 10(1) of the 1978 Act allows for different provision to be made for different circumstances.

Section 101 of the 1984 Act authorises the recovery of sums and section 102 authorises the recovery of charges in respect of the removal, storage and disposal of vehicles as may be prescribed.

Section 103(3) of the 1984 Act allows for different charges to be prescribed for different cases or classes of case.

Regulation 3 prescribes the amounts payable in respect of removal, retention and disposal of vehicles as set out in Parts 1 to 3 of schedule 1. The amount payable in respect of those matters is determined by the type or size of a vehicle, and by the circumstances under which it is removed. Regulation 3(3) also makes provision for additional charges for the removal of a vehicle in certain circumstances. A mileage charge of £1.10 per mile is applied where the operator is required to travel in excess of 40 miles in order to remove and retain a vehicle and a ferry charge of £125 is applied for every single journey by ferry the operator is required to make to remove and retain a vehicle.

Regulation 4 revokes the instruments listed in schedule 2.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Environment and Forestry Directorate, Zero Waste Delivery Team, Victoria Quay, Edinburgh EH6 6QQ.

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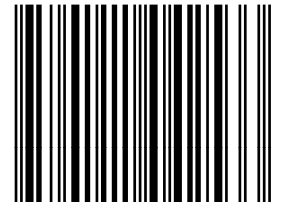
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