

2011 No. 395

POLICE

**The Police (Retention and Disposal of Motor Vehicles)
(Scotland) Amendment Regulations 2011**

Made - - - - - *9th November 2011*

Laid before the Scottish Parliament *11th November 2011*

Coming into force - - - *22nd December 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 127 of the Antisocial Behaviour etc. (Scotland) Act 2004(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Police (Retention and Disposal of Motor Vehicles) (Scotland) Amendment Regulations 2011 and come into force on 22nd December 2011.

Interpretation

2. In these Regulations “the 2005 Regulations” means the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005(b).

Amendment of the 2005 Regulations

3.—(1) The 2005 Regulations are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation), insert the following definitions at the appropriate places—

““damaged” means damage to a vehicle such that in the reasonable opinion of a constable it cannot be driven safely on the road;

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

“load” means anything 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;

(a) 2004 asp 8.
(b) S.S.I. 2005/80.

- (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);

“off road” means that no part of the vehicle is in contact with the road;

“on road” means that any part of the vehicle is in contact with the road;

“road” means any length of the highway or of any other road to which the public has access, and includes bridges over which a road passes;

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

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

“vehicle” means motor vehicle and includes any trailer attached to, or that has become disconnected from, an associated vehicle.”.

(3) For regulation 6 substitute—

“6.—(1) The charge payable under regulation 5(1) shall be—

- (a) in respect of the removal of the vehicle, the amount determined under paragraph (2); and
- (b) in respect of the retention of the vehicle, the amount determined under paragraph (3).

(2) 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 the Schedule, is the applicable amount specified in the corresponding entry in columns 2 to 5 of that table.

(3) The amount for each retention period in respect of a vehicle of the type or MAM specified in column 1 of the table in Part 2 of the Schedule, is the amount specified in the corresponding entry in column 2 of that table.

(4) In this regulation—

“retention period” means each period of 24 hours (or a part thereof) during which the vehicle is in the custody of the retaining authority, counting from noon of the first day on which the place at which the vehicle is stored after removal is open for the claiming of the vehicle before that time;

“MAM” includes the MAM of any trailer attached to a vehicle.

(5) For the purposes of the table in Part 1 of the Schedule, a vehicle will only be considered upright if all parts of the vehicle are upright.”.

(4) Insert, as a Schedule to the 2005 Regulations, the Schedule set out in the Schedule to these Regulations.

(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.

Transitional Provisions

4. The amendments made to the 2005 Regulations by these Regulations shall not apply in relation to vehicles removed prior to 22nd December 2011.

St Andrew's House,
Edinburgh
9th November 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE

Regulation 3(4)

“SCHEDULE

Regulation 6

Charges in relation to the removal and retention of a motor vehicle

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	£150	—	—	—
Any other vehicle, on road, which is upright and is not damaged	£150	£200	£350	£350
Any other unladen vehicle on road which is not upright or is damaged	£250	£650	£2000	£3000
Any other laden vehicle on road which is not upright or is damaged	£250	£650	£3000	£4500
Any other unladen vehicle off road, which is upright and is not damaged	£200	£400	£1000	£1500

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 other laden vehicle off road, which is upright and is not damaged	£200	£400	£1500	£2000
Any other unladen vehicle off road which is not upright or is damaged	£300	£850	£3000	£4500
Any other laden vehicle off road which is not upright or is damaged	£300	£850	£4500	£6000

PART 2

Retention of a motor vehicle

Column 1	Column 2
<i>Type and weight of vehicle</i>	<i>Sum payable</i>
Any two wheeled vehicle	£10
Any other vehicle, equal to or less than 3.5 tonnes MAM	£20
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£25
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£30
Any other vehicle exceeding 18 tonnes MAM	£35"

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 127 of the Antisocial Behaviour (Scotland) Act 2004 (“the 2004 Act”) and amend the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005 (“the 2005 Regulations”).

Under section 126 of the 2004 Act the police have certain powers to seize and remove motor vehicles.

These Regulations provide for the amounts payable in respect of removal, retention and disposal of vehicles as set out in Parts 1 and 2 of the Schedule. The amount of the charge payable in respect of those matters is now determined by the type or size of a vehicle, and by the circumstances under which it is removed by an authority.

These Regulations amend Regulation 6 of the 2005 Regulations which previously provided for charges of £105 for removal of a vehicle and £12 a day for retention of a vehicle.

A business and regulatory impact assessment has not been prepared for these Regulations.

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