

2011 No. 394

ROAD TRAFFIC

The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Scotland) 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 sections 4(5) and (6) and 5(1) of the Refuse Disposal (Amenity) Act 1978(a) and sections 101(4) and (5) and 102(2) 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(2) of the 1984 Act.

Citation and 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 2011 and come into force on 22nd December 2011.

(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;

“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;

(a) 1978 c.3; 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).

(b) 1984 c.27; “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).

- (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);

“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;

“upright” means that all parts of a vehicle are upright;

“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.

Specified amounts

3.—(1) The prescribed sums for the purposes of sections 4(5) and (6) of the 1978 Act and 101(4) and (5) 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 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) paragraph (2) in respect of the removal of a vehicle;
- (b) paragraph (3) in respect of the storage, custody or retention of a vehicle; and
- (c) paragraph (4) in respect of the disposal of a vehicle.

(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 Schedule 1, is the applicable amount specified in the corresponding entry in columns 2 to 5 of that table.

(3) The amount for each 24 hour period during which a vehicle of the type or weight described 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.

(4) The amount for the disposal of a vehicle of the type or weight described 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.

(5) For the purposes of paragraph (3)—

- (a) the first 24 hour period begins at noon on the first day after removal during which a 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 a vehicle is retained.

(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.

Revocations

4. The instruments specified in Schedule 2 are revoked.

St Andrew's House,
Edinburgh
9th November 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE 1
Specified amount

Regulation 3

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
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

PART 3

Disposal of a motor vehicle

Column 1	Column 2
<i>Type and weight of vehicle</i>	<i>Sum payable</i>
Any two wheeled vehicle	£50
Any other vehicle equal to or less than 3.5 tonnes MAM	£75
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£100
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£125
Any other vehicle exceeding 18 tonnes MAM	£150

SCHEDULE 2

Regulation 4

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 of that Act enables the authority to dispose of such vehicles, and section 5 of that Act enables the authority to recover expenses in connection with removed vehicles.

Sections 101 and 102 of the 1984 Act enable a local authority to dispose of a vehicle which appears to have been abandoned and which has been, or could at any time be, removed under certain powers under that Act.

These Regulations prescribe 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 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 revoke the instruments listed in Schedule 2 which provided for charges of £150 for removal of a vehicle, £20 a day (or part of a day) for storage of a vehicle and £150 for disposal of a vehicle.

The period during which a person may remove a vehicle from the custody of a local authority, on payment of the sums in respect of removal and storage as prescribed by these Regulations, is 7 days by virtue of regulation 16 of the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183).

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

© Crown Copyright 2011

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen’s Printer for Scotland.

SCOTTISH STATUTORY INSTRUMENTS

2011 No. 394

ROAD TRAFFIC

The Removal, Storage and Disposal of Vehicles (Prescribed
Sums and Charges etc.) (Scotland) Regulations 2011

£5.75

S5286 11/2011 315286T 19585

ISBN 978-0-11-101519-3



9 780111 015193