SCOTTISH STATUTORY INSTRUMENTS

2011 No. 395

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

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(**1**).

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;

(d) a crane, works truck as defined in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986(**2**), 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(**3**);

"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;

(**1**) S.S.I. 2005/80.
(**2**) S.I. 1986/1078, to which there are amendments not relevant to these Regulations.
(**3**) S.I. 1999/2864, to which there are amendments not relevant to these Regulations.

"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.

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

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A member of the Scottish Executive