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STATUTORY INSTRUMENTS

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**2008 No. 2097**

**ROAD TRAFFIC**

**The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>28th July 2008</i>
<i>Laid before Parliament</i>		<i>5th August 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State, in exercise of the powers conferred on her by section 165B of the Road Traffic Act 1988 (1), makes the following Regulations.

In accordance with section 195(2)(2) of that Act, she has consulted with such representative organisations as she thinks fit.

**Citation and commencement**

1. These Regulations may be cited as the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008 and shall come into force on 1st October 2008.

**Amendment of the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005**

2.—(1) Subject to paragraph (2), the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005(3) shall be amended in accordance with the following regulations.

(2) In relation to vehicles removed prior to 1 October 2008, nothing in these Regulations shall have effect and the provisions mentioned in paragraph (1) shall continue to have effect.

3. In regulation 2 the following definitions are inserted in the appropriate alphabetical place—

““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;

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(1) 1988 c. 52. Section 165B was inserted into the Road Traffic Act 1988 by section 152 of the Serious Organised Crime and Police Act 2005 (c. 15).  
(2) There are amendments to section 195(2) not relevant to these Regulations.  
(3) S.I. 2005/1606.

- (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<sup>(4)</sup>, 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 <sup>(5)</sup>;

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

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

“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;”.

**4.** For regulation 6(1) substitute—

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

- (a) the amount payable for the removal of the vehicle as set out in paragraph (2); and
- (b) the amount payable for the retention of the vehicle as set out in paragraph (3).

(2) The amount payable for the removal of the vehicle shall depend upon the condition of the vehicle, the type of vehicle and whether it is on road or off road as set out in column 1 of Table 1 and shall be the charge specified in relation to that vehicle in columns 2 to 5 of that Table, the particular charge to be determined by reference to the MAM of the vehicle as described in row 1 of that Table and, for vehicles exceeding 7.5 tonnes MAM and not falling within row 2, whether the vehicle is laden or unladen.

**Table 1 – Regulation 6(2)**

	1	2	3	4	5
1	<i>Vehicle position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
2	Vehicle on road, upright and not substantially damaged or any	£150	£200	£350	£350

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

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

	1	2	3	4	5
1	<i>Vehicle position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
	two wheeled vehicle whatever its condition or position on or off road				
3	Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both.	£250	£650	Unladen—£2000 Laden—£3000	Unladen—£3000 Laden—£4500
4	Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£400	Unladen—£1000 Laden—£1500	Unladen—£1500 Laden—£2000
5	Vehicle, excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£300	£850	Unladen—£3000 Laden—£4500	Unladen—£4500 Laden—£6000

(3) The amount payable for the retention of the vehicle, for each period of 24 hours or a part thereof during which the vehicle is in the custody of the authorised person, with regards to vehicles set out in row 1 of Table 2, shall be the charge specified in relation to those vehicles in row 2 of that Table.

**Table 2 – Regulation 6(3)**

	1	2	3	4	5
1	<i>Two wheeled vehicle</i>	<i>Vehicle, not including a two wheeled vehicle, equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
2	£10	£20	£25	£30	£35

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(4) For the purposes of this regulation, the MAM of a vehicle includes the MAM of any trailer attached to that vehicle.

(5) For the purposes of paragraph (2), a vehicle will only be considered upright if all parts of the vehicle are upright.

(6) For the purposes of paragraph (3), each period of 24 hours shall be reckoned from noon on the first day after removal during which the place at which the vehicle is stored is open for the claiming of vehicles before noon.”.

Home Office  
28th July 2008

*Vernon Coaker*  
Parliamentary Under Secretary of State

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 by increasing the charges that apply in respect of the removal and retention of vehicles seized by the police under section 165A of the Road Traffic Act 1988 (power to seize vehicles driven without licence or insurance). The charges were previously £105 for removal and £12 for storage per 24 hour period or part thereof.