
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the immobilisation, removal and disposal of certain vehicles which have been prohibited from being driven.

Regulation 3 provides for the application of the Regulations. They apply where a vehicle has been prohibited from being driven in connection with a contravention of drivers' hours rules; under powers to prohibit the driving of foreign goods vehicles and foreign public service vehicles; under powers to prohibit the driving of unfit or overloaded vehicles or under powers to prohibit the driving of vehicles on failure to make payment in compliance with a financial penalty deposit requirement. The Regulations do not apply if the vehicle is displaying a current disabled person's badge or recognised badge (as referred to in section 21A of the Chronically Sick and Disabled Persons Act 1970).

Regulation 4 provides that an authorised person or person acting under the direction of an authorised person may fix an immobilisation device to a vehicle to which the Regulations apply, and move the vehicle, or direct it to be moved for the purposes of fitting the device. Authorised persons are defined in paragraph 10 of Schedule 4 to the Road Safety Act 2006. Where an immobilisation device has been fixed, a notice must be fixed to the vehicle specifying certain matters, including the steps required to secure the release of the vehicle (*regulation 4(2)*). Paragraphs (3) to (5) of *regulation 4* specify the steps required to secure release of an immobilisation device. These include payment of an £80 release fee.

Regulations 5 - 8 provide for certain offences in connection with immobilisation, namely failing to comply within a reasonable time with a direction to remove the vehicle (*regulation 5*); removing or interfering with an immobilisation notice (*regulation 6*); removing or attempting to remove an immobilisation device (*regulation 7*); or making false or misleading statements with a view to securing the release of a vehicle from an immobilisation device (*regulation 8*).

Regulations 9 - 11 provide for the removal of a vehicle and the notice which must be provided in respect of such a removal which must include, among other things, details of the steps a person must take to reclaim the vehicle. *Regulation 12* sets out those steps. *Regulation 13*, together with the *Schedule*, sets out the manner of calculating the amount of compensation payable to the owner of the vehicle if it is claimed after being disposed of. In accordance with *regulation 14*, the vehicle may be disposed of, sold or destroyed if it is not claimed within three months from the date on which the vehicle was removed or the direction to remove the vehicle was given. The Secretary of State or the person into whose custody the vehicle is delivered may recover charges in accordance with *regulation 15* and the *Schedule* whether or not the vehicle is reclaimed or a claim is made under *regulation 14* following its disposal. These include charges for the release, removal, custody and disposal of the vehicle.

Regulations 16 and 17 specify offences in respect of failing to comply with a direction to remove or deliver a vehicle and in respect of false or misleading statements. Disputes are dealt with in accordance with *regulation 18*. *Regulation 19* applies certain provisions of the Road Traffic Offenders Act 1988 in respect of the offences created by the Regulations.

A full Impact Assessment of the effect this instrument will have on costs for the business and voluntary sectors has been produced and is available from the Licensing Roadworthiness and Insurance Division, Department for Transport, Zone 2/09 Great Minister House, 76 Marsham Street, London SW1P 4DR and may be accessed on the Department's website at www.dft.gov.uk. A copy has been placed in the library of each House of Parliament.