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STATUTORY INSTRUMENTS

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**2013 No. 1686**

**LEGAL AID AND ADVICE, ENGLAND & WALES**

**The Criminal Legal Aid (Motor  
Vehicle Orders) Regulations 2013**

<i>Made</i>	- - - -	<i>5th July 2013</i>
<i>Laid before Parliament</i>		<i>9th July 2013</i>
<i>Coming into force</i>	- -	<i>30th July 2013</i>

The Lord Chancellor makes the following Regulations<sup>(1)</sup> in exercise of the powers conferred by sections 5(2), 23(11), 24, 30(2) and 41(3)(a) of, and Schedule 2 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(2)</sup>.

**PART 1**

**Interpretation and General**

**Citation, commencement and transitional provision**

1.—(1) These Regulations may be cited as the Criminal Legal Aid (Motor Vehicle Orders) Regulations 2013 and come into force on 30th July 2013.

(2) These Regulations do not apply to a pre-commencement case.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“charges due” means the total charges imposed in accordance with regulation 27 (charges);

“contribution order” means a document which records a determination by the Director under the Contribution Orders Regulations;

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(1) Section 42(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) provides that in Part 1 of that Act “regulations” means Regulations made by the Lord Chancellor.

(2) 2012 c. 10.

“Contribution Orders Regulations” means the Criminal Legal Aid (Contribution Orders) Regulations 2013(3);

“court” means a magistrates’ court;

“date of change in liability” means the date on which—

- (a) the individual’s contribution order is amended; or
- (b) the determination under the Contribution Orders Regulations that an individual is liable to make a payment is withdrawn,

as a result of a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations;

“enforcement costs” mean the costs added to the amount payable by an individual in accordance with regulation 45 (costs of enforcement) of the Contribution Orders Regulations;

“overdue” in relation to an amount means any amount which is unpaid on the day after the date the payment is required to be made by the individual;

“registration mark” has the meaning given in section 23(1) of the Vehicle Excise and Registration Act 1994(4);

“relevant court” means the court to which the application is made for a motor vehicle order under regulation 5 (application for a clamping order) or regulation 19 (application for a vehicle sale order);

“relevant criminal proceedings” means the criminal proceedings in relation to which the individual’s liability under the Contribution Orders Regulations to the relevant overdue amount specified in the motor vehicle order arose;

“relevant opening hours” means the hours specified in accordance with regulation 13(d)(ii) (immobilisation notices) or regulation 14(3)(g) (removal and storage of a motor vehicle); and

“relevant overdue amount” does not include an amount payable under a Recovery of Defence Costs Order within the meaning of the Criminal Legal Aid (Recovery of Defence Costs Orders) Regulations 2013(5), but otherwise has the meaning in paragraph 1 of Schedule 2 to the Act.

(2) For the purposes of regulation 1(2), “pre-commencement case” means a case where the determination by the Director under section 16 of the Act (representation in criminal proceedings) that an individual qualifies for representation for the purposes of criminal proceeding to which the Contribution Orders Regulations apply is made before the date on which these Regulations come into force.

### **Delegation**

3. A function of the Lord Chancellor under these Regulations may be exercised by, or by an employee of, a person authorised for that purpose by the Lord Chancellor(6).

### **Provision of information and documentary evidence**

4. For the purposes of the enforcement of an obligation to make a payment under the Contribution Orders Regulations, the Lord Chancellor may at any time require an individual to provide information and documentary evidence relating to—

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(3) [S.I. 2013/483](#). The Contribution Orders Regulations make provision for amounts payable by an individual in connection with the provision of criminal legal aid to the individual in the Crown Court. These Regulations make provision about the enforcement of an obligation to make a payment under the Contribution Orders Regulations.

(4) [1994 c. 22](#).

(5) [S.I. 2013/511](#).

(6) Section 6 of the Act (authorisations) makes provision for authorisations given for the purpose of section 5 of the Act (delegation) or regulations under that section.

- (a) the individual's interest in a motor vehicle; and
- (b) the interest of any other person in the motor vehicle.

## PART 2

### Clamping Orders

#### **Application for a clamping order**

5.—(1) The Lord Chancellor may apply in writing to the court for a clamping order in respect of an individual for the purpose of enabling a relevant overdue amount required to be paid by the individual to be recovered.

- (2) The application must include—
  - (a) the individual's full name, last known address and date of birth; and
  - (b) details of—
    - (i) the relevant overdue amount;
    - (ii) the steps taken in connection with the enforcement of the obligation to pay the relevant overdue amount;
    - (iii) the motor vehicle or vehicles to be clamped;
    - (iv) the estimated value of the motor vehicle or vehicles if sold; and
    - (v) the individual's interest in the motor vehicle or vehicles.
- (3) The application must be accompanied by any relevant documentary evidence.
- (4) The Lord Chancellor must send a copy of the application by post to—
  - (a) the individual; and
  - (b) any other person who the Lord Chancellor is aware has an interest in the motor vehicle or vehicles,

at their last known address.

#### **Representations and documentary evidence in relation to a clamping order**

- 6.—(1) The Lord Chancellor must notify—
  - (a) the individual; and
  - (b) any other person who the Lord Chancellor is aware has an interest in the motor vehicle or vehicles,

that they may submit written representations to the relevant court in relation to the application for a clamping order.

- (2) Written representations under paragraph (1) must be—
  - (a) made within—
    - (i) 14 days beginning with the date of the notification under paragraph (1); or
    - (ii) such further period as the court may allow following an application to the court for an extension of time made within the period specified in sub-paragraph (i); and
  - (b) accompanied by any relevant information and documentary evidence, including information and documentary evidence as to the matters set out in regulation 7(2).

(3) Written representations made by a person notified in accordance with paragraph (1)(b) must be accompanied by any relevant information and documentary evidence as to that person's interest in the motor vehicle or vehicles to be clamped.

### **The making of a clamping order**

7.—(1) On receipt of—

- (a) an application for a clamping order made under regulation 5; and
- (b) any representations made in accordance with regulation 6,

the court must decide whether it would be appropriate in all the circumstances to make a clamping order.

(2) In deciding whether it would be appropriate in all the circumstances to make a clamping order, in addition to any other matters which the court considers relevant, the court must take into account—

- (a) the practicability of alternative means of transport if the order were made; and
- (b) whether the individual or any other person would be likely to be unduly prejudiced by the making of the order.

(3) The court must not make a clamping order unless satisfied that—

- (a) the failure to pay the relevant overdue amount is attributable to the individual's wilful refusal or culpable neglect;
- (b) the value of the motor vehicle or vehicles to be clamped, if sold, would be likely to be an amount which exceeds half of the estimated recoverable amount; and
- (c) the motor vehicle or vehicles to be clamped are owned by the individual liable to pay the relevant overdue amount.

(4) In this regulation and regulation 21, "alternative means of transport" include, where relevant—

- (a) home to school travel arrangements or school travel arrangements provided by a local authority in accordance with sections 508B or 508C of the Education Act 1996(7);
- (b) the Patient Transport Service(8); and
- (c) public transport.

### **Matters to be included in a clamping order**

8.—(1) A clamping order must state—

- (a) the individual's full name, last known address and date of birth;
- (b) details of—
  - (i) the relevant overdue amount; and
  - (ii) the motor vehicle or vehicles to be clamped;
- (c) how the relevant overdue amount may be paid;
- (d) (except where the court makes a new clamping order following an application under regulation 17(2)(b)) the earliest date on which the motor vehicle or vehicles may be

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(7) 1996 c. 56. Sections 508B and 508C were added by section 77(1) of Part 6 of the Education and Inspections Act 2006 (c. 40).

(8) Non-emergency patient transport services, known as the Patient Transport Service, are typified by the non-urgent, planned, transportation of patients with a medical need for transport to and from premises providing NHS healthcare and between NHS healthcare providers.

clamped if the relevant overdue amount specified in the clamping order is not paid in full; and

- (e) that the order ceases to have effect if—
  - (i) the motor vehicle or vehicles are released in accordance with regulations 15 to 18 or 21; or
  - (ii) the court makes a new clamping order following an application under regulation 17(2)(b).
- (2) The court must send a copy of the clamping order to—
  - (a) the individual;
  - (b) any person who submits representations in accordance with regulation 6; and
  - (c) the Lord Chancellor.

### **Defect in a clamping order or irregularity in its execution**

- 9.—(1) A clamping order shall not be held void by reason of any defect in the order.
- (2) A person acting in the execution of a clamping order shall not be deemed to be a trespasser by reason only of any irregularity in the execution of the order.
- (3) Nothing in this regulation shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the order or irregularity in its execution.

### **Clamping: exempt motor vehicles**

- 10. A motor vehicle must not be clamped if—
  - (a) it displays a current disabled person's badge or a current recognised badge;
  - (b) there are reasonable grounds for believing that it is used for the carriage of a disabled person;
  - (c) it is used for police, fire or ambulance purposes; or
  - (d) it is—
    - (i) being used by a doctor on call away from their usual place of work; and
    - (ii) displaying a British Medical Association badge or other health emergency badge showing the doctor's address.

### **The clamping of a motor vehicle**

11. If the relevant overdue amount specified in the clamping order is not paid in full by the date specified in accordance with regulation 8(1)(d), the Lord Chancellor may clamp the motor vehicle or vehicles in accordance with these Regulations.

### **Places where a motor vehicle may be clamped**

- 12.—(1) A motor vehicle may be clamped at any place (including on any highway or road) to which the public has access.
- (2) A motor vehicle may be clamped on private land to which access may be had at the time of clamping.
- (3) The Lord Chancellor may enter private land in accordance with paragraph (2) with equipment and with a motor vehicle for the purpose of clamping a motor vehicle on the land, releasing it from an immobilisation device or removing it to storage.

(4) If a motor vehicle is so positioned that, were the motor vehicle clamped in that position there would at any time be a contravention of any prohibition or restriction imposed by or under any enactment, the motor vehicle must be repositioned to the nearest place where there would be no such contravention before it is clamped.

(5) If a motor vehicle repositioned in accordance with paragraph (4) is not visible from the place in which it was originally positioned, a notice must be placed at or near the original position of the motor vehicle specifying—

- (a) that the motor vehicle has been clamped;
- (b) where the motor vehicle may be found; and
- (c) how enquiries relating to the immobilisation device may be made.

### **Immobilisation notices**

**13.** Where a motor vehicle is clamped, the Lord Chancellor must fix to the motor vehicle an immobilisation notice stating—

- (a) that the motor vehicle has been clamped;
- (b) details of—
  - (i) the relevant overdue amount specified in the clamping order;
  - (ii) the charges which may be imposed in accordance with regulation 27; and
  - (iii) how enquiries relating to the immobilisation device may be made;
- (c) the date and time of the clamping of the motor vehicle;
- (d) the steps necessary to secure the release of the motor vehicle including—
  - (i) how payment of the relevant overdue amount and the charges due may be made;
  - (ii) the hours during which the motor vehicle may be released from the immobilisation device; and
  - (iii) how to apply under regulation 18 for the release of a motor vehicle wrongly clamped; and
- (e) the consequences of not securing the release of the motor vehicle.

### **Removal and storage of a motor vehicle**

**14.—(1)** A motor vehicle which is clamped must, unless released in accordance with regulations 15 to 18, remain where it is positioned or repositioned for a period of not less than 24 hours from the time at which the motor vehicle is clamped.

(2) When the period referred to in paragraph (1) has ended, if the relevant overdue amount specified in the clamping order and the charges due have not been paid in full, the Lord Chancellor may remove the motor vehicle to secure premises for storage.

(3) (Except during the period referred to in regulations 17(3) and 18(11)) where a motor vehicle is removed the Lord Chancellor must send a written notice to the individual at their last known address stating—

- (a) the registration mark of the motor vehicle;
- (b) the date and time of the clamping of the motor vehicle;
- (c) that since the relevant overdue amount and the charges due have not been paid in full the motor vehicle has been removed for storage;
- (d) the date and time of the removal of the motor vehicle and the place from where the motor vehicle was removed;

- (e) details of—
  - (i) the relevant overdue amount specified in the clamping order;
  - (ii) the charges that may be imposed in accordance with regulation 27;
- (f) a name, address and telephone number for enquiries relating to the removal and storage of the motor vehicle;
- (g) the opening hours of the storage premises;
- (h) the steps necessary to secure the release of the motor vehicle including—
  - (i) how payment of the relevant overdue amount and any charges due may be made; and
  - (ii) how to apply under regulation 18 for the release of a motor vehicle wrongly clamped; and
- (i) the serial number of the notice.
- (4) A motor vehicle removed to storage must remain in storage unless the motor vehicle is—
  - (a) released in accordance with regulations 15 to 18, 21, 23 or 24; or
  - (b) sold in accordance with regulation 25.
- (5) Premises used for the storage of a motor vehicle must be secure and such as to protect the motor vehicle from damage or deterioration.

#### **Payment following the clamping of a motor vehicle**

**15.**—(1) Where—

- (a) the relevant overdue amount specified in the clamping order; and
- (b) the charges due,

are paid in full, the Lord Chancellor must release the motor vehicle or vehicles from an immobilisation device or from storage as soon as is practicable during the relevant opening hours.

(2) Where the amount specified in paragraph (1) is not paid in full, the payment must be applied—

- (a) first, towards meeting the charges due; and
- (b) second, towards payment of the relevant overdue amount.

(3) Where any payment is made, the Lord Chancellor must issue a receipt including the following information—

- (a) the employer, name and any identification number of the individual issuing the receipt;
- (b) the registration mark of the motor vehicle;
- (c) the date on which the clamping order was made;
- (d) the name of—
  - (i) the individual liable to pay the relevant overdue amount; and
  - (ii) if payment is made by a person acting on the individual's behalf, of that person;
- (e) the amount, date and time of the payment; and
- (f) the serial number of the receipt.

#### **Change in relevant overdue amount following the clamping of a motor vehicle: release of a motor vehicle**

**16.** Where—

- (a) a clamping order is made in respect of an individual; and

(b) following a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations the individual is not liable to make any payment, the Lord Chancellor must release the motor vehicle or vehicles from an immobilisation device or from storage as soon as is practicable during relevant opening hours.

**Change in relevant overdue amount following the clamping of a motor vehicle: other**

- 17.—(1) This regulation applies where—
- (a) a clamping order is made in respect of an individual; and
  - (b) following a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations, the amount of the payment which is overdue is less than the relevant overdue amount specified in the clamping order.
- (2) Within 14 days beginning with the date of change in liability, the Lord Chancellor must—
- (a) release the motor vehicle or vehicles from an immobilisation device or from storage; or
  - (b) make an application to the court for a new clamping order under regulation 5.
- (3) During the relevant period, the Lord Chancellor—
- (a) may remove the motor vehicle or vehicles to storage in accordance with regulation 14; and
  - (b) must not make an application for a vehicle sale order under regulation 19.
- (4) Where a motor vehicle is removed to storage during the relevant period, the Lord Chancellor must send an interim removal notice to the individual at their last known address.
- (5) If the court decides in accordance with regulation 7 to make a new clamping order, where a motor vehicle—
- (a) has not been removed to storage, the Lord Chancellor must fix a new immobilisation notice to the motor vehicle in accordance with regulation 13; or
  - (b) has been removed to storage, the Lord Chancellor must send a new written notice to the individual in accordance with regulation 14(3).
- (6) If the court decides in accordance with regulation 7 not to make a new clamping order—
- (a) the court must order the release of the motor vehicle or vehicles; and
  - (b) the Lord Chancellor must, in accordance with the order of the court, release the motor vehicle or vehicles from an immobilisation device or from storage as soon as is practicable during the relevant opening hours.
- (7) In this regulation, “the relevant period” means the period beginning with the date of change in liability, and ending with the date on which—
- (a) the Lord Chancellor releases the motor vehicle or vehicles in accordance with paragraph (2)(a); or
  - (b) the court determines an application made under paragraph (2)(b).
- (8) In this regulation and regulation 18, “interim removal notice” means a written notice stating—
- (a) the registration mark of the motor vehicle;
  - (b) that the motor vehicle has been removed to storage;
  - (c) the date and time of the removal of the motor vehicle and the place from where the motor vehicle was removed;
  - (d) a name, address and telephone number for enquiries relating to the removal and storage of the motor vehicle;
  - (e) the opening hours of the storage premises; and



- (f) the serial number of the notice.

### **Release of a motor vehicle wrongly clamped**

**18.**—(1) Where a motor vehicle is clamped, removed or stored in breach of any provision of these Regulations, a person may apply to the Lord Chancellor for the release of the motor vehicle from an immobilisation device or from storage.

(2) On receipt of an application made under paragraph (1), the Lord Chancellor must decide whether it would be appropriate in all the circumstances to grant or refuse the application.

(3) The Lord Chancellor must send to the person written notice of the Lord Chancellor's decision within 10 days beginning with the date of the receipt of the application.

(4) Where the Lord Chancellor decides to—

- (a) grant the application, the Lord Chancellor must make arrangements for the release of the motor vehicle from an immobilisation device or from storage as soon as is practicable during the relevant opening hours; or
- (b) refuse the application, the Lord Chancellor must provide reasons for the refusal.

(5) Where the Lord Chancellor—

- (a) decides to refuse the application; or
- (b) fails to send to the person written notice of the Lord Chancellor's decision within the period specified in paragraph (3),

the person may apply to the court for the release of the motor vehicle from an immobilisation device or from storage.

(6) An application to the court must be made in writing within—

- (a) 14 days beginning with the date of—
  - (i) the receipt of the notice of the Lord Chancellor's decision in accordance with paragraph (3); or
  - (ii) where the Lord Chancellor fails to send to the person notice of the Lord Chancellor's decision in accordance with paragraph (3), the day after the end of the period specified in that paragraph; or
- (b) such further period as the court may allow following an application to the court for an extension of time made within the period specified in sub-paragraphs (a)(i) or (ii).

(7) Unless withdrawn, the application must be listed for an expedited hearing.

(8) The court must notify the applicant and the Lord Chancellor—

- (a) of the date, time and place of the hearing; and
- (b) that they may attend the hearing and submit written representations.

(9) At the hearing, the court must decide whether it would be appropriate in all the circumstances to—

- (a) order the release of the motor vehicle; or
- (b) dismiss the application.

(10) Where the court orders the release of the motor vehicle, the Lord Chancellor must, in accordance with the order of the court, release the motor vehicle from an immobilisation device or from storage as soon as is practicable during the relevant opening hours.

(11) During the relevant period, the Lord Chancellor—

- (a) may remove the motor vehicle to storage in accordance with regulation 14; and
- (b) must not make an application for a vehicle sale order under regulation 19.

(12) Where a motor vehicle is removed to storage during the relevant period, the Lord Chancellor must send an interim removal notice to the individual at their last known address.

(13) In this regulation, “the relevant period” means the period beginning with the date of the receipt of the application made under paragraph (1), and ending with the date on which—

- (a) the Lord Chancellor releases the motor vehicle in accordance with paragraph (4)(a);
- (b) the period within which an application under paragraph (6) must be made ends; or
- (c) the court determines an application made under paragraph (5),

whichever is the latest.

## PART 3

### Vehicle Sale Orders

#### **Application for a vehicle sale order**

**19.**—(1) Subject to regulations 17(3)(b) and 18(11)(b), the Lord Chancellor may apply in writing to the court for a vehicle sale order in respect of an individual for the purpose of enabling a relevant overdue amount required to be paid by the individual to be recovered if—

- (a) the individual has been convicted in the Crown Court in the relevant criminal proceedings; and
- (b) the relevant overdue amount specified in the clamping order has not been paid in full.

(2) The application must include —

- (a) the individual’s full name, last known address and date of birth; and
- (b) details of—
  - (i) the relevant overdue amount;
  - (ii) the charges due;
  - (iii) the motor vehicle or vehicles to be sold;
  - (iv) the clamping order; and
  - (v) the individual’s interest in the motor vehicle or vehicles.

(3) The application must be accompanied by any relevant documentary evidence.

(4) The Lord Chancellor must send a copy of the application by post to—

- (a) the individual; and
- (b) any other person who the Lord Chancellor is aware has an interest in the motor vehicle or vehicles,

at their last known address.

#### **Representations and documentary evidence in relation to a vehicle sale order**

**20.**—(1) The Lord Chancellor must notify—

- (a) the individual; and
- (b) any other person who the Lord Chancellor is aware has an interest in the motor vehicle or vehicles,

that they may submit written representations to the relevant court in relation to the application for a vehicle sale order.

- (2) Written representations under paragraph (1) must be—
  - (a) made within—
    - (i) 14 days beginning with the date of the notification under paragraph (1); or
    - (ii) such further period as the court may allow following an application to the court for an extension of time made within the period specified in sub-paragraph (i); and
  - (b) accompanied by any relevant information and documentary evidence, including information and documentary evidence as to the matters set out in regulation 21(2).
- (3) Written representations made by a person notified in accordance with paragraph (1)(b) must be accompanied by any relevant information and documentary evidence as to—
  - (a) that person’s interest in the motor vehicle or vehicles to be clamped; and
  - (b) the value of that person’s interest.

### **The making of a vehicle sale order**

- 21.**—(1) On receipt of—
- (a) an application for a vehicle sale order made under regulation 19; and
  - (b) any representations made in accordance with regulation 20,
- the court must decide whether it would be appropriate in all the circumstances to make a vehicle sale order.
- (2) In deciding whether it would be appropriate in all the circumstances to make a vehicle sale order, in addition to any other matters which the court considers relevant, the court must take into account—
- (a) the practicability of alternative means of transport if the order were made; and
  - (b) whether the individual or any other person would be likely to be unduly prejudiced by the making of the order.
- (3) The court must not make a vehicle sale order before the end of a period of 28 days beginning with the date on which—
- (a) the individual is convicted in the Crown Court in the relevant criminal proceedings; or
  - (b) a clamping order is made under regulation 7,
- whichever is the later.
- (4) (Except where the court determines an application for a new vehicle sale order made under regulation 24(2)(b)), if the court decides not to make a vehicle sale order—
- (a) the court must order the release of the motor vehicle or vehicles; and
  - (b) the Lord Chancellor must—
    - (i) in accordance with the order of the court, release the motor vehicle or vehicles from an immobilisation device or from storage as soon as is practicable during the relevant opening hours; and
    - (ii) notify the individual that the individual remains liable to any charges due.

### **Matters to be included in a vehicle sale order**

- 22.**—(1) A vehicle sale order must state—
- (a) the individual’s full name, last known address and date of birth;
  - (b) details of—
    - (i) the relevant overdue amount;

- (ii) the charges due; and
- (iii) the motor vehicle or vehicles to be sold;
- (c) where the court is satisfied that another person has an interest in a motor vehicle to be sold, details of—
  - (i) that person; and
  - (ii) the value of that person’s interest in the motor vehicle; and
- (d) that the order ceases to have effect if—
  - (i) the motor vehicle or vehicles are released in accordance with regulations 23 or 24; or
  - (ii) the court makes a new vehicle sale order following an application under regulation 24(2)(b).
- (2) The court must send a copy of the vehicle sale order to—
  - (a) the individual;
  - (b) any person who submits representations in accordance with regulation 20; and
  - (c) the Lord Chancellor.

**Release of a motor vehicle following a vehicle sale order**

- 23.—**(1) This regulation applies where—
- (a) a vehicle sale order is made in respect of an individual;
  - (b) the motor vehicle or vehicles are not sold; and
  - (c) either—
    - (i) the Court of Appeal allows an appeal against conviction by the individual in the relevant criminal proceedings; or
    - (ii) following a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations, the individual is not liable to make any payment.
- (2) The Lord Chancellor must—
- (a) release the motor vehicle or vehicles from storage as soon as is practicable during the relevant opening hours; and
  - (b) where paragraph (1)(c)(i) applies, notify the individual that the individual remains liable to the charges due.

**Change in relevant overdue amount following the making of a vehicle sale order**

- 24.—**(1) This regulation applies where—
- (a) a vehicle sale order is made in respect of an individual;
  - (b) the motor vehicle or vehicles are not sold; and
  - (c) following a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations, the amount of the payment which is overdue is less than the relevant overdue amount specified in the vehicle sale order.
- (2) Within 14 days beginning with the date of change in liability, the Lord Chancellor must—
- (a) release the motor vehicle or vehicles from storage; or
  - (b) make an application to the court for a new vehicle sale order under regulation 19.

(3) During the relevant period the Lord Chancellor must not arrange for the motor vehicle or vehicles to be sold.

(4) If the court decides in accordance with regulation 21 not to make a new vehicle sale order—

- (a) the court must order the release of the motor vehicle or vehicles; and
- (b) the Lord Chancellor must, in accordance with the order of the court, release the motor vehicle or vehicles from storage as soon as is practicable during the relevant opening hours.

(5) In this regulation, “the relevant period” means the period beginning with the date of change in liability and ending with the date on which—

- (a) the Lord Chancellor releases the motor vehicle or vehicles in accordance with paragraph (2)(a); or
- (b) the court determines an application made under paragraph (2)(b).

### **Sale of a motor vehicle**

**25.**—(1) Subject to regulation 24(3), if the court makes a vehicle sale order the Lord Chancellor must arrange for the motor vehicle or vehicles to be sold.

(2) On the sale of a motor vehicle or vehicles pursuant to a vehicle sale order—

- (a) the ownership of the motor vehicle shall vest in the purchaser and the Lord Chancellor must secure the registration of the motor vehicle in the name of the purchaser under the Vehicle Excise and Registration Act 1994(9);
- (b) the net proceeds of sale (subject to paragraph (3)) must be applied—
  - (i) first, towards meeting the charges due;
  - (ii) second, towards meeting the overdue enforcement costs; and
  - (iii) third, towards payment of the balance of the relevant overdue amount specified in the vehicle sale order.

(3) Where the vehicle sale order specifies that another person has an interest in a motor vehicle, the Lord Chancellor must—

- (a) first, pay that person a share of the proceeds of sale proportionate to the value of that person’s interest as specified in the vehicle sale order; and
- (b) then deal with the balance of the proceeds of sale in accordance with paragraphs (2) and (4).

(4) The Lord Chancellor must send payment of any remaining balance of the proceeds of sale to the individual within 14 days beginning with the date on which the motor vehicle is sold, accompanied by a written statement of account.

### **Repayment of the proceeds of sale**

**26.**—(1) This regulation applies where—

- (a) a motor vehicle is sold and the proceeds of sale are dealt with in accordance with regulation 25; and
- (b) either—
  - (i) the Court of Appeal allows an appeal against conviction by the individual in the relevant criminal proceedings; or
  - (ii) following a reassessment or a review in accordance with regulations 18, 35 or 39 of the Contribution Orders Regulations, the individual is not liable to make any

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(9) 1994 c. 22.

payment or the amount of the payment which is overdue is less than the relevant overdue amount specified in the vehicle sale order.

(2) Where paragraph (1)(b)(i) applies, the Lord Chancellor must repay to the individual the amount of the net proceeds of sale, less—

- (a) the amount of—
  - (i) the charges due; and
  - (ii) the overdue enforcement costs; and
- (b) any amount paid—
  - (i) to another person in accordance with regulation 25(3); and
  - (ii) to the individual in accordance with regulation 25(4).

(3) Where paragraph (1)(b)(ii) applies and the individual is not liable to make any payment, the Lord Chancellor must repay to the individual the amount of the proceeds of sale, less any amount paid—

- (a) to another person in accordance with regulation 25(3); and
- (b) to the individual in accordance with regulation 25(4).

(4) Where paragraph (1)(b)(ii) applies and the amount of the payment which is overdue is less than the relevant overdue amount specified in the vehicle sale order, the Lord Chancellor must repay to the individual the amount of the proceeds of sale less—

- (a) the amount of the payment which is overdue under the Contribution Orders Regulations (less any enforcement costs); and
- (b) any amount paid—
  - (i) to another person in accordance with regulation 25(3); and
  - (ii) to the individual in accordance with regulation 25(4).

(5) Compound interest must be paid on any amount repaid under this regulation at a rate of 2% per year with yearly rests from the date of the sale of the motor vehicle.

## PART 4

### Charges and enforcement

#### Charges

27.—(1) Subject to paragraph (2), the charges set out in the table in the Schedule to these Regulations are payable by the individual in respect of whom a clamping order or vehicle sale order is made.

- (2) The charges are not payable—
  - (a) where any of the following regulations apply—
    - (i) regulation 16;
    - (ii) regulation 17(2)(a);
    - (iii) regulation 17(6);
    - (iv) regulation 18(4)(a);
    - (v) regulation 18(9)(a);
    - (vi) regulation 23(1)(c)(ii);
    - (vii) regulation 24(2)(a);

- (viii) regulation 24(4);
- (ix) regulation 26(1)(b)(ii); and
- (b) in respect of the period referred to in regulations 17(3), 18(11) and 24(3).

**Recovery of charges due other than from the proceeds of sale**

**28.**—(1) This regulation applies where—

- (a) regulation 23(1)(c)(i) applies; or
- (b) regulations 25 or 26(1)(b)(i) apply and the charges due are not recovered in full.

(2) The balance of the charges due is recoverable—

- (a) summarily as a civil debt; and
- (b) if the High Court or a county court so orders on the application of the Lord Chancellor, as if they were payable under an order of the court in question.

(3) Where a complaint is made for the recovery of charges referred to in paragraph (1), the powers conferred on a magistrates' court by section 58 of the Magistrates' Court Act 1980<sup>(10)</sup> may be exercised by a single justice.

Signed by authority of the Lord Chancellor

5th July 2013

*McNally*  
Minister of State  
Ministry of Justice

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<sup>(10)</sup> 1980 c. 43. Section 58 was amended by section 33 of, paragraph 80 of Schedule 2 to, and paragraphs 1 and 6 of Schedule 3 to the Family Law Reform Act 1987 (c. 42).

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## SCHEDULE

Regulation 27

1. The charge for any matter referred to in column (1) of the table is the sum specified in column (2) of the table.

**Table**

<i>(1) Matter for which charge may be imposed</i>	<i>(2) Amount of charge (£)</i>
The clamping of a motor vehicle	100
The removal of a motor vehicle	125
The storage of a motor vehicle for each period of 24 hours or part thereof	16
The release of a motor vehicle from an immobilisation device	100
The release of a motor vehicle from storage	100

**EXPLANATORY NOTE**

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

These Regulations make provision about the enforcement of an obligation to make a payment under the [Criminal Legal Aid \(Contribution Orders\) Regulations 2013 \(2013/483\)](#) (“the Contribution Orders Regulations”) in connection with the provision of representation to the individual in criminal proceedings.

These Regulations authorise a court to make motor vehicle orders in respect of an individual for the purpose of enabling certain sums required to be paid under the Contribution Orders Regulations to be recovered from the individual, where those sums are overdue.

The Contribution Orders Regulations make provision in relation to the liability of individuals who are in receipt of representation under section 16 (representation for criminal proceedings) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) (“the Act”) to make a payment in connection with the provision of such representation.

Section 24 of the Act provides that regulations may make provision about enforcement; and Schedule 2 to the Act makes specific provision about enforcement by means of motor vehicle orders.

Regulation 3 provides that the functions of the Lord Chancellor under these Regulations may be exercised by, or by an employee of, a person authorised for that purpose by the Lord Chancellor.

Part 2 makes provision in connection with clamping orders. Regulations 5 to 9 concern the application for a clamping order and the making of the order. Regulations 10 to 14 concern the clamping and removal to storage of a motor vehicle subject to an order. Regulations 15 to 18 concern the release of a motor vehicle subject to an order.

Part 3 makes provision in connection with vehicle sale orders. Regulations 19 to 22 concern the application for a vehicle sale order and the making of the order. Regulations 23 and 24 concern the



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release of a motor vehicle subject to an order. Regulations 25 and 26 concern the sale of a motor vehicle and make provision about the proceeds of sale.

Part 4 makes provision in connection with the charges that may be imposed in connection with motor vehicle orders and the recovery of such charges.