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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 231**

**The Police (Retention and Disposal of Motor Vehicles) (Scotland) Amendment Regulations 2019**

**Citation and commencement**

1. These Regulations may be cited as the Police (Retention and Disposal of Motor Vehicles) (Scotland) Amendment Regulations 2019 and come into force on 10 October 2019.

**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—

““laden” means that the vehicle is carrying a load;”,

““load” means anything which, in the reasonable opinion of a constable, complicates or impedes the removal of the vehicle 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) and, for the purposes of regulation 6, includes the MAM of any trailer attached to a vehicle;”,

““off road” means that no part of the vehicle is in contact with the road, or that, in the reasonable opinion of a constable, the vehicle’s location is such that removal of the vehicle is of comparable complexity to a vehicle that is not in contact with the road;”,

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(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.

““on road” means that any part of the vehicle is in contact with the road, and that, in the reasonable opinion of a constable, the vehicle’s location is not such that removal of the vehicle is of comparable complexity to a vehicle that is not in contact with the road;”,

““operator” means any person lawfully removing the vehicle;”,

““road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984(4);”,

““significantly damaged” means that, in the reasonable opinion of a constable, there is significant damage to the vehicle such that it renders the removal of the vehicle complex;”,

““two wheeled vehicle” means a mechanically propelled vehicle constructed or adapted to have two wheels or fewer and the MAM of which does not exceed 3.5 tonnes;”,

““unladen” means that the vehicle is not carrying a load;”,

““upright” means that, in the reasonable opinion of a constable, the vehicle is upright to such an extent that its removal is not complicated or impeded;”

““vehicle” means any motor vehicle and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle and anything attached to such a vehicle.”.

(3) For regulation 6 substitute—

“6.—(1) The charge payable under regulation 5(1) is—

- (a) in respect of the removal of the vehicle, the amount determined by reference to paragraphs (2) and (3); and
- (b) in respect of the retention of the vehicle, the amount determined under paragraph (4).

(2) Subject to paragraph (3), 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) There is added to the amount determined under paragraph (2)—

- (a) a charge of £1.10 for every mile that the operator is required to travel in excess of 40 miles (starting from, and ending at, its base of operations) in order to remove the vehicle and store, retain or hold it in custody, and
- (b) a charge of £125 for each journey the operator is required to make by ferry in order to remove the vehicle and store, retain or hold it in custody at its base of operations.

(4) The amount for each 24 hour period during which a vehicle of the type and MAM specified in column 1 of the table in Part 2 of the schedule is in the custody of the retaining authority, is the amount specified in the corresponding entry in column 2 of that table.

(5) For the purposes of paragraph (4)—

- (a) the first 24 hour period begins at noon on the first day that the 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 the vehicle is retained.”.

(4) As the schedule of the 2005 Regulations, insert the schedule set out in the schedule of these Regulations.

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(4) 1984 c.54. Section 151 was amended by section 168(1) and schedule 8, paragraph 94(b) of the New Roads and Street Works Act 1991 (c.22).

## **Saving**

**4.** The amendments made to the 2005 Regulations by these Regulations do not apply in relation to vehicles removed prior to 10 October 2019.

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