

2008 No. 2266

ROAD TRAFFIC

The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) (Amendment) Regulations 2008

<i>Made</i>	- - - -	<i>20th August 2008</i>
<i>Laid before Parliament</i>		<i>27th August 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 32A of, and Schedule 2A to, the Vehicle Excise and Registration Act 1994(a).

Citation and commencement

1. These Regulations may be cited as the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) (Amendment) Regulations 2008 and shall come into force on 1st October 2008.

Amendment of Regulations

2. The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997(b) shall be amended in accordance with the following regulations.

3. In regulation 2 (interpretation), in paragraph (1) after the definition of “release” there shall be inserted—

““relevant place” means a place to which Schedule 2A to the 1994 Act applies;”.

4. In regulation 4 (disapplication of the Regulations)—

- (a) in paragraph (1), there shall be omitted “which is on a public road”;
- (b) in paragraph (2), there shall be omitted sub-paragraph (b);
- (c) paragraph (3) shall be omitted.

5. In regulation 5 (power to immobilise vehicles)—

- (a) in paragraph (1) for “on a public road” there shall be substituted “in a relevant place”;
- (b) in paragraph (2)—
 - (i) after “may” there shall be inserted “enter a relevant place and”;

(a) 1994 c.22; section 32A and Schedule 2A were inserted by the Finance Act 1995 (c.4), section 19, Schedule 4, paragraph 36(1); Schedule 2A was amended by the Finance Act 1997 (c.16), section 20 and the Finance Act 2008 (c.9), section 145 and Schedule 45.
(b) S.I. 1997/2439; relevant amending instruments are S.I. 1997/3063, 1998/1217, 2001/936.

- (ii) in sub-paragraph (a), for “in the place where it is stationary” there shall be substituted “in that place”; and
- (iii) in sub-paragraph (b), for “place on the same or another public road” there shall be substituted “relevant place”.

6. In regulation 6 (release of immobilised vehicles)—

- (a) in paragraph (1) sub-paragraph (b)—
 - (i) paragraph (i) and the word “or” following it shall be omitted; and
 - (ii) in paragraph (ii) there shall be omitted “or that the vehicle was at the time it was immobilised an exempt vehicle”;
- (b) for paragraph (3) there shall be substituted—

“(3) The second requirement is that—

 - (a) evidence that no offence under section 29(1) of the 1994 Act was being committed when the immobilisation device was fixed or the vehicle moved is produced in accordance with instructions specified in the immobilisation notice;
 - (b) the prescribed charge for a surety payment is paid in any manner specified in the immobilisation notice;
 - (c) a vehicle licence for the vehicle, which is in force, is produced; or
 - (d) a declaration is made that—
 - (i) an appropriate licence was in force for the vehicle at the time when the immobilisation device was fixed or the vehicle moved;
 - (ii) save in the case of a vehicle stationary on a public road, a relevant declaration was in force for the vehicle at that time; or
 - (iii) at that time the vehicle was an exempt vehicle which was not one in respect of which regulations under the 1994 Act require a nil licence to be in force.”.

7. In regulation 8 (other offences connected with immobilisation) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted—

- “(a) a person makes a declaration of a type referred to in regulation 6(3)(d) with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations; and”.

8. In regulation 9 (removal of vehicles)—

- (a) in paragraph (1), in sub-paragraph (a) for “on a public road” there shall be substituted “in a relevant place”; and
- (b) in paragraph (3), after “direction, may” there shall be inserted “enter the relevant place and”.

9. In regulation 12 (taking possession of a vehicle), in paragraph (2)—

- (a) in sub-paragraph (b), for “a vehicle licence in respect of the vehicle which was in force when the vehicle was immobilised, or where it was not immobilised, it was removed,” there shall be substituted “evidence that no offence under section 29(1) of the 1994 Act was committed”;
- (b) for sub-paragraph (c) there shall be substituted—

“(c) the claimant—

 - (i) produces to the custodian evidence that no offence under section 29(1) was committed;
 - (ii) produces to the custodian a vehicle licence for the vehicle which is then in force; or
 - (iii) pays to the custodian the prescribed charge for the surety payment.”.

10. In regulation 17 (disputes), in paragraph (6) for “on a public road” in each instance those words appear there shall be substituted “in a relevant place”.

11. In Schedule 1 (the prescribed charges)—

- (a) in Table I—
 - (i) in relation to item 1 in column (3) for “£80” there shall be substituted “£100”;
 - (ii) in relation to item 2—
 - (aa) in column (2) for “motorcycle” there shall be substituted “vehicle”; and
 - (bb) in column (3) for “£80” there shall be substituted “£100”;
 - (iii) in relation to item 3—
 - (aa) in column (2) “, including a motorcycle” shall be omitted; and
 - (bb) in column (3) for “£160” there shall be substituted “£200”; and
 - (iv) in relation to item (4) for “£15” there shall be substituted “£21; and
- (b) in Table II in column (3)—
 - (i) in relation to item 1 for “£120” there shall be substituted “£160”;
 - (ii) in relation to item 2 for “£300” there shall be substituted “£330”; and
 - (iii) in relation to item 3 for “£600” there shall be substituted “£700”.

Signed by the authority of the Secretary of State for Transport

20th August 2008

Tom Harris
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997.

The Regulations—

- (a) provide that, unless within the curtilage of a dwelling, a stationary vehicle may be immobilised, removed or impounded where there is reason to believe that an offence under section 29(1) of the Vehicle Excise and Registration Act 1994 (“the Act”) is being committed in relation to it (*regulations 3, 4(a), 5(a) and (b)(ii) and (iii), 8(a) and 10*);
- (b) omit an exception from the application of the regulations in respect of vehicles to which section 29(1) of the Act does not apply and make a consequential amendment (*regulation 4(b) and (c)*);
- (c) (provide that a person may enter onto land to immobilise or remove a vehicle (*regulations 5(b)(i) and 8(b)*);
- (d) prescribe the circumstances in which an immobilised vehicle must be released where the prescribed release charge is paid or a vehicle licence is produced and make consequential amendments (*regulation 6*);
- (e) make it an offence to falsely declare, with a view to securing the release of a vehicle, that the vehicle was licensed, nil-licensed, exempt or the subject of a valid statutory off- road declaration (*regulation 7*);
- (f) provide that the owner of a vehicle must, unless making a surety payment or producing a vehicle licence, produce evidence that no offence under section 29(1) of the Act was committed in respect of that vehicle in order to take possession of it and to avoid payment of the prescribed charges for its removal and storage (*regulation 9*);
- (g) provide for increases in the prescribed charges for the release, removal and storage of certain vehicles and for the surety payment (*regulation 11(a)(i), (ii)(bb), (iii)(bb), (iv) and (b)*); and
- (h) extend the lower charge where possession of a removed vehicle is taken within 24 hours from motorcycles to all vehicles (*regulation 11(a)(ii)(aa) and (iii)(aa)*).

The previous prescribed charges were introduced on 9th April 2001. The following table summarises the changes made by these Regulations to the prescribed charges.

(1) Previous Charge	(2) New Charge	(3) Total percentage Increase	(4) Equivalent average annual percentage increase since the previous charges were introduced
£80	£100	25%	3.57%
£160	£200	25%	3.57%
£15 per day	£21 per day	40.00%	5.72%
£120	£160	33.33%	4.76%
£300	£330	10.00%	1.42%
£600	£700	16.66%	2.38%

A full impact assessment has not been produced for these Regulations as no impact on the costs of the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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**The Vehicle Excise Duty (Immobilisation, Removal and
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