SCOTTISH STATUTORY INSTRUMENTS

2005 No. 80

POLICE

The Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005

Made - - - -	*22nd February 2005*
Laid before Parliament	*23rd February 2005*
Coming into force - -	*17th March 2005*

The Scottish Ministers, in exercise of the powers conferred on them by section 127 of the Antisocial Behaviour etc. (Scotland) Act 2004(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005 and shall come into force on 17th March 2005.

Interpretation

2. In these Regulations–

"the 2004 Act" means the Antisocial Behaviour etc. (Scotland) Act 2004;

"GB registration mark" means a registration mark issued in relation to a motor vehicle under the Vehicle Excise and Registration Act 1994(**2**);

"motor vehicle" means any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads;

"owner" includes–

(a) the person by whom, according to the records maintained by the Secretary of State in connection with any functions exercisable by him by virtue of the Vehicle Excise and Registration Act 1994, the motor vehicle is kept and used; or

(b) in relation to a motor vehicle which is the subject of a hire agreement or a hire-purchase agreement, the person entitled to possession of the motor vehicle under the agreement;

(**1**) 2004 asp 8.
(**2**) 1994 c. 22.

"relevant motor vehicle" means a motor vehicle which has been seized and removed under section 126(3)(b) of the 2004 Act;

"the retaining authority" means a constable or such other person authorised by the chief constable under regulation 3(1);

"seizure notice" means a notice complying with regulation 4;

"specified information", in relation to a motor vehicle, means such of the following information as can be or could have been ascertained from an inspection of the motor vehicle, or has been ascertained from any other source, that is to say–

(c) in the case of a motor vehicle which carries a GB registration mark, or a mark indicating registration in a place outside Great Britain, particulars of that mark; and

(d) the make of the motor vehicle.

Retention and safe keeping of motor vehicles

3.—(1) A relevant motor vehicle shall be passed into and remain in the custody of a constable or other person authorised under this regulation by the chief constable of the police force for the area in which the motor vehicle is seized (the "retaining authority") until–

(a) the retaining authority permits it to be removed from their custody by a person appearing to the retaining authority to be the owner of the motor vehicle; or

(b) it has been disposed of under these Regulations.

(2) Whilst any motor vehicle is in such custody, the retaining authority shall be under a duty to take such steps as are reasonably necessary for its safe keeping.

Giving of seizure notice

4.—(1) The retaining authority shall, as soon as possible after a relevant motor vehicle has been taken into their custody, take such steps as are practicable to give a seizure notice to the person who is or appears to be the owner of that motor vehicle, except where the motor vehicle has been released from their custody in accordance with these Regulations.

(2) A seizure notice required to be given under these Regulations shall comply with, and be given in accordance with, the following provisions of this regulation.

(3) A seizure notice shall, in respect of the motor vehicle to which it relates, contain the specified information and shall state–

(a) the place where the motor vehicle was seized;

(b) the police area where it is now being kept;

(c) that the person to whom the notice is directed is required to claim the motor vehicle from the retaining authority on or before the date specified in the notice, being a date not less than 7 days from the day when the notice is given to that person;

(d) that unless the motor vehicle is claimed on or before that date the retaining authority intends to dispose of it; and

(e) that, subject to regulation 5(3), charges are payable under these Regulations by the owner of the motor vehicle in respect of the removal and retention of the motor vehicle, and that the motor vehicle may be retained until such charges are paid.

(4) The seizure notice shall be given–

(a) by delivering it to the person to whom it is directed;

(b) by leaving it at that person's usual or last known address;

(c) by addressing it to that person and sending it by registered post to that person's usual or last known address;

(d) if the person is a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office, or sending it by registered post, addressed to the secretary or clerk of the body at that office; or

(e) if the person is a limited liability partnership or a member of the partnership, by sending it by registered post to the registered or principal office of the patnership.

Release of vehicles

5.—(1) Subject to the provisions of these Regulations, if, before a relevant motor vehicle is disposed of by a retaining authority, a person satisfies the retaining authority that they are the owner of that motor vehicle and pay to the retaining authority such a charge in respect of its removal and retention as is provided for in regulation 6, the retaining authority shall permit that person to remove the motor vehicle from such custody.

(2) In determining whether the retaining authority is satisfied that a person who claims to be the owner of a relevant motor vehicle is in fact the owner, the retaining authority may consider such documentary evidence as may be supplied.

(3) A person who would otherwise be liable to pay a charge under paragraph (1) shall not be liable to pay it if–

(a) the use by reference to which the motor vehicle was seized under section 126 of the 2004 Act was not a use by that person; and

(b) that person did not know of the use of the motor vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.

Charges in relation to the removal and retention of a motor vehicle

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

(a) in respect of the motor vehicle's removal, £105; and

(b) in respect of retention, £12 for each period of 24 hours or a part thereof during which the motor vehicle is in the custody of the retaining authority.

(2) For the purposes of paragraph (1)(b), each period of 24 hours shall be reckoned from noon on the first day after removal during which the place at which the motor vehicle is stored is open for the claiming of such motor vehicles before noon.

Disposal of motor vehicles

7.—(1) Where the retaining authority has been unable to give a seizure notice to the person who is or appears to be the owner of a relevant motor vehicle or, following the giving of such a seizure notice, the motor vehicle has not been released from the custody of the retaining authority under these Regulations, the retaining authority may dispose of the motor vehicle in accordance with the following provisions of this regulation.

(2) If the retaining authority is satisfied that the person to whom a seizure notice has been given is the owner of the motor vehicle, the retaining authority may dispose of the motor vehicle at any time, subject to paragraph (6).

(3) Where the retaining authority is not so satisfied, it may, after taking steps under paragraph (5) to find a person who may be the owner of the motor vehicle and any other steps for that purpose which appear to the retaining authority to be practicable, in such manner as the retaining authority thinks fit dispose of the motor vehicle at any time, subject to paragraph (6), if–