
STATUTORY INSTRUMENTS

1997 No. 2439

ROAD TRAFFIC

**The Vehicle Excise Duty (Immobilisation, Removal
and Disposal of Vehicles) Regulations 1997**

<i>Made</i>	- - - -	<i>9th October 1997</i>
<i>Laid before Parliament</i>		<i>10th October 1997</i>
<i>Coming into force</i>	- -	<i>30th November 1997</i>

The Secretary of State, in exercise of powers conferred by sections 57(1), (2) and (3) of, and Schedule 2A to, the Vehicle Excise and Registration Act 1994⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 and shall come into force on 3rd November 1997.

(2) The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1996⁽²⁾ and the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) (Amendment) Regulations 1997⁽³⁾ are hereby revoked.

Interpretation

2.—(1) In these Regulations—

“the 1994 Act” means the Vehicle Excise and Registration Act 1994;

“authorised person” has the meaning given by regulation 3;

“custodian” in relation to a vehicle has the meaning given by regulation 9(3);

(1) 1994 c. 22. Schedule 2A was inserted by paragraph 36(2) of Schedule 4 to the Finance Act 1995 (c. 4) and amended by section 20 of the Finance Act 1997 (c. 16).
(2) S.I.1996/107; amended by S.I. 1997/565.
(3) S.I. 1997/565.

“disabled person’s badge” has the meaning given by paragraph 1(7) of Schedule 2A to the 1994 Act;

“G.B. records” means the records kept under the 1994 Act by the Driver and Vehicle Licensing Agency on behalf of the Secretary of State and “G.B. registration mark” means a registration mark assigned to a vehicle registered in those records;

“local authority” means, in relation to England a county council, a district council, a London borough council or the Common Council of the City of London and, in relation to Wales, a County Council or County borough Council;

“N.I. records” means the records kept under the 1994 Act by Driver and Vehicle Licensing Northern Ireland on behalf of the Secretary of State and “N.I. registration mark” means a registration mark assigned to a vehicle registered in those records;

“public service vehicle” has the meaning given by section 1 of the Public Passenger Vehicles Act 1981(4);

“release” in relation to a vehicle means release from an immobilisation device;

“surety payment” means a sum payable by virtue of regulation 6(3)(b) or regulation 12(2)(c) (ii) where a vehicle licence is not produced; and

“voucher” means a voucher issued under regulation 15(2).

(2) References to the prescribed charge for any matter are to the charge specified in relation to that matter in Schedule 1 to these Regulations.

(3) References to the “owner” of a vehicle at a particular time are to the person by whom it was then kept and the person in whose name the vehicle is registered at a particular time shall be taken, unless the contrary is shown, to be the person by whom the vehicle was kept at that time.

(4) Except where it is expressly provided otherwise, references in these Regulations to a numbered regulation are to the regulation in these Regulations so numbered and references to a numbered paragraph are to the paragraph so numbered in the regulation in which the reference occurs.

Authorised persons

3.—(1) In these Regulations a reference to an authorised person is to a person authorised by the Secretary of State for the purposes of these Regulations.

(2) An authorised person may be a local authority, an employee of a local authority, a member of a police force or any other person.

(3) Different persons may be authorised for different purposes, but a person who is an authorised person for the purposes of regulation 17 shall not act as an authorised person for any other purpose.

Disapplication of the Regulations

4.—(1) These Regulations shall not apply in relation to a vehicle in any of the circumstances specified in paragraph (2).

(2) The circumstances are that—

- (a) a current disabled person’s badge is displayed on the vehicle;
- (b) the vehicle is an exempt vehicle and a current nil licence is displayed on it;
- (c) a badge issued pursuant to the British Medical Association car badge scheme is displayed on the vehicle;
- (d) the vehicle appears to an authorised person to have been abandoned;

(4) 1981 c. 14. Section 1 was amended by Schedule 8 to the Transport Act 1985 (c. 67).

- (e) the vehicle is a public service vehicle being used for the carriage of passengers;
 - (f) the vehicle is being used for the purpose of the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of a public road, or the laying, erection, alteration, repair or cleaning in or near a road of any traffic sign or sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telegraph or telephone wires, cables, posts or supports;
 - (g) the vehicle is being used by the Post Office in connection with the delivery or collection of postal packets and each side of the vehicle is clearly marked with the words “Post Office” or “Royal Mail”; or
 - (h) the vehicle is stationary at a time when, having been immobilised or removed under these Regulations, less than 24 hours have elapsed since it was released or, as the case may be, removed.
- (3) In this regulation “nil licence” means a document which—
- (a) was issued by the Secretary of State in accordance with regulations under the 1994 Act;
 - (b) is in the form of a vehicle licence; and
 - (c) has “NIL” marked in the space provided for indicating the amount of vehicle excise duty payable.

PART II

IMMOBILISATION OF VEHICLES

Power to immobilise vehicles

5.—(1) This regulation applies where an authorised person has reason to believe that an offence under section 29(1) of the 1994 Act is being committed as regards a vehicle which is stationary on a public road in England or in Wales.

(2) Where this regulation applies, without prejudice to the institution of proceedings for any offence under the 1994 Act, the authorised person or a person acting under his direction may—

- (a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or
- (b) move it from that place to another place on the same or another public road and fix an immobilisation device to it in that other place.

(3) Where an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device shall also fix to the vehicle an immobilisation notice which—

- (a) indicates that the device has been fixed to the vehicle and warns that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;
- (b) states the reason why the device has been fixed;
- (c) specifies the steps to be taken to secure its release including the charges payable under these Regulations and the person to whom and the means by which those charges may be paid.

Release of immobilised vehicles

6.—(1) A vehicle to which an immobilisation device has been fixed in accordance with regulation 5—

- (a) may be released only by or under the direction of an authorised person; and

- (b) subject to sub-paragraph (a) above, shall be released—
 - (i) where there is produced to an authorised person a vehicle licence for the vehicle which was in force when the vehicle was immobilised; or
 - (ii) where an authorised person is satisfied that the vehicle was immobilised in any of the circumstances specified in regulation 4(2) or that the vehicle was at the time it was immobilised an exempt vehicle; or
 - (iii) if the first and second requirements specified in paragraphs (2) and (3) are met.
- (2) The first requirement is that the prescribed charge for the release of the vehicle from the immobilisation device is paid in any manner specified in the immobilisation notice.
- (3) The second requirement is that—
 - (a) a vehicle licence is produced in accordance with instructions specified in the immobilisation notice and the licence is one which is in force for the vehicle concerned at the time the licence is produced; or
 - (b) where such a licence is not produced, the prescribed charge for a surety payment is paid in any manner specified in the immobilisation notice.

Removal of or interference with immobilisation notice or device

- 7.—(1) An immobilisation notice shall not be removed or interfered with except by or under the authority of an authorised person.
- (2) A person contravening paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Any person who, without being authorised to do so in accordance with regulation 6, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with these Regulations is guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Other offences connected with immobilisation

- 8.—(1) Where these Regulations would apply in relation to a vehicle but for the provisions of regulation 4(1) and (2)(a) and the vehicle was not, at the time it was stationary, being used—
 - (a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970⁽⁵⁾ or with regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978⁽⁶⁾, and
 - (b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984⁽⁷⁾ or Article 174A(2)(b) of the Road Traffic (Northern Ireland) Order 1981⁽⁸⁾ (use where a disabled person's concession would be available).
 the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where—
 - (a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with these Regulations,

(5) 1970 c. 44. Section 21 was amended by the Local Government Act 1972 (c. 72) Schedule 30, the Transport Act 1982 (c. 49) section 68, the Road Traffic Regulation Act 1984 (c. 27) Schedule 13, paragraph 11, the Local Government Act 1985 (c. 51) Schedule 5, paragraph 1 and the Road Traffic Act 1991 (c. 40) section 35 and Schedule 8.

(6) 1978 c. 53.

(7) 1984 c. 27. Section 117(1) was substituted by the Road Traffic Act 1991 (c. 40) section 35 and Schedule 8.

(8) S.I. 1981/154 (N.I.1).

- (b) the declaration is that the vehicle is or was an exempt vehicle, and
 - (c) the declaration is to the person's knowledge either false or in any material respect misleading.
- that person is guilty of an offence.

- (3) A person guilty of an offence by virtue of paragraph (2) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

PART III

REMOVAL AND DISPOSAL OF VEHICLES

Removal of vehicles

9.—(1) This regulation applies where an authorised person has reason to believe that an offence under section 29(1) of the 1994 Act—

- (a) is being committed as regards a vehicle which is stationary on a public road in England or in Wales; or
 - (b) was being committed as regards a vehicle at a time when an immobilisation device which is fixed to the vehicle was fixed to it in accordance with these Regulations and the conditions prescribed in paragraph (2) are fulfilled.
- (2) The conditions are—
- (a) 24 hours have elapsed since the device was fixed to the vehicle, and
 - (b) the vehicle has not been released in accordance with these Regulations.

(3) In a case where this regulation applies, the authorised person or a person acting under his direction, may remove the vehicle and deliver it to a person authorised by the Secretary of State to keep vehicles so removed in his custody (in these Regulations called a “custodian”).

Disposal of removed vehicles

10.—(1) Subject to the provisions of this regulation, the custodian of a vehicle delivered to him in accordance with regulation 9(3) may dispose of it by selling it or dealing with it as scrap, as he thinks fit.

(2) Where the owner of a vehicle has disclaimed all rights of ownership of a vehicle, it may be disposed of pursuant to this regulation at any time.

(3) In a case not falling within paragraph (2), a vehicle shall not be disposed of pursuant to this regulation before the end of the period of five weeks beginning with the date on which the vehicle was removed in accordance with regulation 9(3) and until the custodian has, for the purpose of ascertaining the owner of the vehicle, taken such of the steps specified in Schedule 2 to these Regulations as are applicable to the vehicle and either—

- (a) he has failed to ascertain the name and address of the owner, or
- (b) the owner has failed to comply with a notice in accordance with paragraph (4) served on him by post.

(4) A notice under paragraph (3)(b) shall be a notice addressed to the owner which—

- (a) states—

- (i) the registration mark and make of the vehicle;
 - (ii) the place where the vehicle was found before it was immobilised;
 - (iii) the place to which the vehicle has been removed;
 - (iv) the steps to be taken to obtain possession of the vehicle in accordance with regulation 12;
 - (v) that unless the vehicle is removed by the owner on or before the date specified under sub-paragraph (b), the custodian intends to dispose of it; and
- (b) requires the owner to remove the vehicle from the custody of the custodian within 21 days of the date on which the notice was served.
- (5) Where it appears to a custodian of a vehicle that more than one person is the owner, such one of them as he thinks fit shall be treated as the owner for the purposes of this regulation.

Recovery of prescribed charges

11.—(1) Where a vehicle has been removed and delivered into the custody of a custodian in accordance with regulation 9(3), the Secretary of State or the custodian may (whether or not any claim is made under regulation 12 or 14) recover from the person who was the owner of the vehicle when the vehicle was removed the prescribed charges for—

- (a) its removal and storage; and
- (b) if the vehicle has been disposed of, its disposal.

(2) Where, by virtue of paragraph (1)(a), any sum is recoverable in respect of a vehicle by a custodian, he shall be entitled to retain custody of it until that sum is paid.

Taking possession of a vehicle

12.—(1) A person (“the claimant”) may take possession of a vehicle which has been removed and delivered to a custodian and has not been disposed of under regulation 10, if the conditions specified in paragraph (2) are satisfied.

(2) The conditions are—

- (a) the claimant satisfies the custodian that he is the owner of the vehicle or that he is authorised by the owner to take possession of the vehicle;
- (b) except where the claimant produces 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, or the custodian is satisfied that these Regulations did not apply to the vehicle at the time it was immobilised or removed, the claimant pays to the custodian—
 - (i) the prescribed charge in respect of the removal of the vehicle; and
 - (ii) the prescribed charge for the storage of the vehicle during the period whilst it was in the custody of the custodian; and
- (c) the claimant either—
 - (i) produces to the custodian a vehicle licence in respect of the vehicle which is in force at the time the vehicle is claimed; or
 - (ii) pays to the custodian the prescribed charge for the surety payment.

(3) On giving the claimant possession of a vehicle pursuant to this regulation, the custodian shall give the claimant a statement of the right of the owner or person in charge of the vehicle at the time it was immobilised or, where it was not immobilised, it was removed to appeal pursuant to regulation 17(2), of the steps to be taken in order to appeal and of the address to which representations to an authorised person made as mentioned in that regulation should be sent.

Offences as to securing possession of vehicles

13.—(1) Where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a custodian in accordance with regulation 9(3);
- (b) the declaration is that the vehicle is or was an exempt vehicle, and
- (c) the declaration is to the person's knowledge either false or in any material respect misleading.

that person is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Claim by owner of a vehicle after its disposal

14.—(1) If, after a vehicle has been disposed of by a custodian pursuant to regulation 10, a person claims to have been the owner of the vehicle at the time when it was disposed of and the conditions specified in paragraph (2) are fulfilled, there shall be payable to him by the custodian a sum calculated in accordance with paragraph (3).

(2) The conditions are that—

- (a) the person claiming satisfies the custodian that he was the owner of the vehicle at the time it was disposed of; and
- (b) the claim is made before the end of the period of one year beginning with the date on which the vehicle was disposed of.

(3) The sum payable under paragraph (1) shall be calculated by deducting from the proceeds of sale the prescribed charges for the removal, storage and disposal of the vehicle.

PART IV

PAYMENT OF SUM WHERE LICENCE IS NOT PRODUCED

Issue of vouchers

15.—(1) This regulation applies where a surety payment has been made in respect of a vehicle under either—

- (a) regulation 6(3)(b); or
- (b) regulation 12(2)(c)(ii).

(2) Where this regulation applies a voucher shall be issued in respect of the surety payment to the person making the payment by an authorised person, in a case falling within paragraph (1)(a), or by the custodian, in a case falling within paragraph (1)(b).

(3) Where a voucher is so issued section 29(1) of the 1994 Act shall not apply as regards the vehicle concerned if it is used or kept on a public road without a vehicle licence being in force for it at any time during the period of 24 hours beginning with the time when the voucher was issued.

(4) Neither an authorised person nor a custodian shall issue a voucher unless they have been furnished with information as to the identity of the owner of the vehicle.

(5) A voucher shall contain the following information—

- (a) the registration mark of the vehicle concerned;
 - (b) the date and time of day when the vehicle was released from the immobilisation device or, as the case may be, possession of it was taken;
 - (c) the name and address of the owner or assumed owner;
 - (d) the amount paid and the means by which it was paid;
 - (e) the name and address of the person procuring the release of the vehicle or, as the case may be, taking possession of it;
 - (f) particulars as to how a refund may be obtained in accordance with paragraph (6).
- (6) The owner of a vehicle as respects which a voucher has been issued under this regulation shall be entitled to a refund of the amount of the surety payment represented by the voucher if—
- (a) within the period of 15 days beginning with the date on which the voucher was issued, the voucher is surrendered to a person authorised to issue vouchers or a custodian; and
 - (b) a valid vehicle licence for the vehicle whose registration mark is given in the voucher is produced at the same time.
- (7) Where a voucher is issued on receipt of a cheque which is subsequently dishonoured—
- (a) the voucher shall be void;
 - (b) the person to whom the voucher is issued shall be required to deliver it up; and
 - (c) no refund shall be payable under paragraph (6).

Offences relating to vouchers

- 16.—(1) Where a person who, in connection with—
- (a) obtaining a voucher under regulation 15, or
 - (b) obtaining a refund of any sum in respect of which a voucher was issued,
- makes a declaration which to his knowledge is either false or in any material respect misleading, he is guilty of an offence.
- (2) A person is guilty of an offence if he forges, fraudulently alters, fraudulently uses or fraudulently lends a voucher or fraudulently allows a voucher to be used by another person.
- (3) A person guilty of an offence under paragraph (1) or (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

PART V

DISPUTES

Disputes

- 17.—(1) This regulation applies to a dispute which has arisen because—
- (a) a person (“the claimant”), in order to secure the release or to obtain possession of a vehicle, has paid a charge in accordance with regulation 6 or 12 and alleges that the charge (“the disputed charge”) should be refunded to him on the ground that, at the time the vehicle was immobilised or, where it was not immobilised, it was removed,—
 - (i) a vehicle licence was in force for the vehicle; or

- (ii) any of the circumstances specified in regulation 4(2) applied to the vehicle; and
- (b) the person to whom the disputed charge was paid refuses to refund the charge.

(2) The claimant under a dispute to which this regulation applies may appeal against the refusal of a refund by sending, to the authorised person whose name is given for this purpose in the statement under regulation 12(3) at the address so given, written representations stating the grounds on which a refund is claimed.

(3) The authorised person to whom the appeal is made may disregard any representations which are received by him after the end of the period of 28 days beginning with the date on which the vehicle was released or, as the case may be, on which possession was taken of it.

(4) The authorised person shall consider any representations duly made and any evidence provided in support of them and notify the claimant whether or not he accepts that either of the grounds mentioned in paragraph (1)(a) have been established and—

- (a) if the authorised person notifies the claimant that one of those grounds has been established, the Secretary of State shall refund the disputed charge;
- (b) if the authorised person rejects the appeal he shall so inform the claimant and at the same time notify him of his right to make a further appeal under paragraph (5).

(5) A claimant, who has appealed to an authorised person under paragraph (2), may make a further appeal to a magistrates' court—

- (a) if his appeal under paragraph (2) has been rejected under paragraph (4) and the further appeal is made within 28 days of his being served with notification to that effect under paragraph (4)(b); or
- (b) if the authorised person has not notified him of the outcome of his appeal in accordance with paragraph (4) and 56 days have elapsed since he appealed,

and, if the court finds that either of the grounds mentioned in paragraph (1)(a) have been established, it shall order the Secretary of State to refund the disputed charge.

Signed by authority of the Secretary of State

Helene Hayman
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

9th October 1997

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SCHEDULE 1

Regulation 2(2)

THE PRESCRIBED CHARGES

1. The prescribed charge for any matter referred to in column (2) of an item in table I below shall be the sum specified in column (3) of that item.

TABLE I

(1) <i>Item</i>	(2) <i>Matter for which charge may be made</i>	(3) <i>Amount of charge (£)</i>
1.	Release of vehicle from immobilisation device	68
2.	Removal of a motorcycle, possession taken within the first 24 hours after such removal	68
3.	Removal of vehicle, including a motorcycle where item 2 does not apply	135
4.	Storage of vehicle—for each period of 24 hours or part thereof	12
5.	Disposal of vehicle	50

2. The prescribed charge for a surety payment in respect of a vehicle for which vehicle excise duty is chargeable in accordance with a provision of Schedule 1 to the 1994 Act specified in column (2) of an item in table II below shall be the sum specified in column (3) of that item.

TABLE II

(1) <i>Item</i>	(2) <i>Provision of Schedule 1 to the 1994 Act</i>	(3) <i>Amount of charge (£)</i>
1.	Part I (general) Part II (motorcycles) Part IV (special vehicles) Part IVA (special concessionary vehicles) Part VIII paragraph 9(2)(a) (showman's goods vehicle), (2)(b) (island goods vehicle) and (2)(c) (goods vehicle used for driver training)	100
2.	Part III (buses)	250

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(1) <i>Item</i>	(2) <i>Provision of Schedule 1 to the 1994 Act</i>	(3) <i>Amount of charge (£)</i>
	Part V (recovery vehicles)	
	Part VII (haulage vehicles)	
	Part VIII (goods vehicles) in so far as it relates to vehicles for which a charge is not prescribed in item 1 and which do not exceed 12,000 kg	
3.	Part VI (vehicles used for exceptional loads)	500
	Part VIII (goods vehicles) in so far as it relates to vehicles for which a charge is not prescribed in items 1 and 2	

SCHEDULE 2

Regulation 10(3)

STEPS TO BE TAKEN TO ASCERTAIN OWNERSHIP OF A REMOVED VEHICLE

1. If the vehicle carries a GB or NI registration mark, the custodian shall ascertain from the GB or, as the case may be, the NI records the name and address of the person by whom the vehicle is kept.
2. If the vehicle does not carry such a registration mark, the custodian shall make such inquiries as appear to him to be practicable to ascertain the identity of the owner of the vehicle.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1996, as amended by the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) (Amendment) Regulations 1997, which only applied in Greater London and provided that a vehicle could only be removed if it had previously been immobilised.

The Regulations provide for the immobilisation and removal of unlicensed mechanically propelled vehicles found stationary on public roads in England and Wales. Regulation 4 sets out circumstances in which the Regulations do not apply. Regulation 5 enables a person authorised by the Secretary of State to fix an immobilisation device to an unlicensed vehicle. Regulation 6 states the conditions to be fulfilled (including the payment of prescribed charges specified in Schedule 1) for the release of a vehicle from an immobilisation device. Offences in connection with immobilisation (including

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unlawful interference with an immobilisation device and falsely claiming exemption to secure the release of a vehicle) are created by regulations 7 and 8.

Part III (regulations 9 to 14) provides for the removal and disposal of vehicles under the Regulations, for the retention of a removed vehicle until prescribed charges are paid and for the conditions under which a removed vehicle can be recovered. A vehicle may be removed although it has not previously been immobilised. It is made an offence to obtain possession of a removed vehicle by falsely claiming that it is exempt from vehicle excise duty. When a vehicle has been disposed of, the owner can claim a sum equal to the proceeds of sale after deduction of prescribed charges.

Regulation 15 provides for the issue of a voucher on the making of a “surety payment” under regulation 6 or 12, where a vehicle is released after immobilisation or removal but a licence for the vehicle is not produced, and for obtaining a refund of the surety payment when the vehicle is licensed. Regulation 16 creates offences relating to false declarations in connection with obtaining vouchers or refunds and to the forgery, or fraudulent alteration or use, of vouchers.

Provision is made by regulation 17 for disputes about charges paid to secure the release of a vehicle from an immobilisation device, or to secure possession of it after its removal, to be referred to a person authorised by the Secretary of State. An appeal against the determination of the authorised person can be made to a magistrates' court.