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STATUTORY INSTRUMENTS

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**1997 No. 2439**

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

**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.