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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations introduce a statutory regime whereby a vehicle adapted to carry more than eight passengers which is being, or has been, used on a road in contravention of the public service vehicle operator licensing requirements in section 12 of the Public Passenger Vehicles Act 1981 can be detained by an authorised person (defined as an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988 or a person acting under the direction of such an examiner). The regime prescribed is similar to that already in place in respect of goods vehicles operated in contravention of the relevant licensing requirements, as set out in the Goods Vehicles (Enforcement Powers) Regulations 2001 (S.I. 2001/3981), made under the Goods Vehicles (Licensing of Operators) Act 1995.

*Regulation 3* empowers an authorised person to detain a vehicle and its contents where that person has reason to believe that the vehicle has been, or is being, used in breach of the licensing requirements. Where, at the time of the detention, passengers are travelling on the vehicle, *regulation 4* requires the authorised person to provide for them to be transported in safety either to their destination, or to a suitable place from which that destination can be reached.

*Regulation 5* empowers an authorised person to fix an immobilisation device to a detained vehicle and, where such a device has been fixed, requires the attachment of an immobilisation notice. *Regulation 6* prescribes that it is a criminal offence for an unauthorised person to remove, or attempt to remove, an immobilisation device from a vehicle, or to remove or interfere with an immobilisation notice.

*Regulation 7* requires the authorised person to take such steps as are reasonably practicable to return contents or personal effects to the person entitled to their return. *Regulation 8* provides for detained property to be placed into the custody of a nominated custodian. *Regulation 9* requires certain steps to be taken to inform a person that their property has been detained.

*Regulation 10* provides that, where the authorised person is satisfied that certain grounds are made out, the vehicle must be returned to the owner without the need for an application to be made to the traffic commissioner. *Regulations 11 to 15* prescribe the procedure under which the owner of a detained vehicle may apply to the traffic commissioner for its return, and provide a right of appeal to the Upper Tribunal against the determination of the traffic commissioner.

*Regulations 16 to 18* prescribe the procedures for the sale or destruction of vehicles and the return or disposal of contents or personal effects. *Regulation 19* places the nominated custodian under a duty to take such steps as are necessary to ensure the safe custody of such property.

*Regulation 20* provides for proceeds from the sale of property to be applied to meeting expenses incurred by the authorised person in exercising functions in relation to that property under these Regulations, with any surplus payable to any person who can prove entitlement to the relevant property. Where no such person comes forward, proceeds may be applied towards meeting expenses incurred in exercising functions under these Regulations in relation to other property. *Regulation 21* prescribes a mechanism for dealing with disputes.

*Regulations 22 and 23* provide that it is a criminal offence to intentionally obstruct an authorised person, or to make a false or misleading statement. *Regulation 24* prescribes various requirements for the giving of notices under these Regulations.

*Regulation 25* empowers traffic commissioners to extend specified periods where considered necessary to enable a case to be dealt with fairly and justly.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

An impact assessment has been prepared and copies can be obtained from the Traffic Enforcement Policy Team, VOSA, Croydon Street, Bristol, BS5 0DA. The assessment is annexed to the Explanatory Memorandum which can be found alongside the instrument on the Office of Public Sector Information website ([www.opsi.gov.uk](http://www.opsi.gov.uk)).