
STATUTORY INSTRUMENTS

2023 No. 834

The A303 (Amesbury to Berwick Down)
Development Consent Order 2023

PART 4

OPERATIONAL PROVISIONS

Removal of vehicles

41.—(1) If any obstruction is caused by a vehicle waiting, loading, unloading or breaking down in the tunnel area, the person in charge of the vehicle must immediately remove it; and if that person fails to do so an authorised person may take all reasonable steps to remove the obstruction.

(2) An authorised person who removes a vehicle under paragraph (1) may do so by towing or driving the vehicle or in such other manner as the authorised person may think necessary and may take such measures in relation to the vehicle as the authorised person considers necessary to enable the vehicle to be removed.

(3) Where an authorised person requires a person to remove a vehicle which is causing an obstruction in the circumstances described under paragraph (1) and the authorised person determines that the manner of removal proposed by the person required to remove it may cause danger to other persons using the road, the authorised person may require the vehicle to be moved in such other manner as the authorised person considers safe or may remove or arrange for the removal of the vehicle if the person required to remove it refuses to remove it in the manner so required.

(4) A vehicle removed by an authorised person under this article—

- (a) may be returned immediately to the person in charge of that vehicle; or
- (b) where immediate return of that vehicle to the person in charge of it is not practicable or appropriate, must be delivered to the undertaker or to a person authorised by the undertaker to keep vehicles so removed (“the custodian” in either case).

(5) The custodian is entitled to recover the relevant charges from any person responsible.

(6) The custodian may dispose of a vehicle at any time after its removal—

- (a) where the owner of the vehicle has disclaimed all rights of ownership of the vehicle;
- (b) where in the opinion of the authorised person the vehicle is in such a condition that it ought to be destroyed; or
- (c) in the case of a vehicle, not falling within sub-paragraph (a) or (b), which—
 - (i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and
 - (ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom).

(7) In a case to which paragraph (6) does not apply, the custodian must—

- (a) if the vehicle carries a United Kingdom registration mark, ascertain from records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994(1) the name and address of the person by whom the vehicle is kept; or
 - (b) if the vehicle does not carry such a registration mark, make such inquiries as appear to the custodian reasonably practicable to ascertain the owner of the vehicle.
- (8) If the custodian, having taken the relevant steps required under paragraph (7), has been unable to ascertain the name and address of the owner of the vehicle, the custodian may dispose of the vehicle.
- (9) A custodian who has ascertained the name and address of the owner of the vehicle must issue a notice to the owner at the owner's address in the form prescribed in paragraph (10).
- (10) A notice under paragraph (9) must—
- (a) contain the specified information; and
 - (b) state—
 - (i) the place to which the vehicle has been removed;
 - (ii) that if the recipient is the owner of the vehicle, the recipient is required to remove the vehicle from the custody of the custodian and pay the relevant charges within the period specified; and
 - (iii) that the custodian intends to dispose of the vehicle if it is not removed within that period.
- (11) The periods specified in paragraph (10)(b)(ii) and (iii) must be not less than 7 days beginning with the day on which the notice is served.
- (12) If the person to whom the notice issued under paragraph (9) fails to comply with all of its requirements, the custodian may dispose of the vehicle at any time after the date specified in the notice in accordance with paragraph (10).
- (13) As soon as reasonably practicable following the disposal of a vehicle under this article the custodian must—
- (a) where the vehicle carried a GB registration mark or a mark indicating registration in Northern Ireland, give information relating to the disposal to—
 - (i) the Secretary of State;
 - (ii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1); and
 - (iii) HPI Ltd.
 - (b) where the vehicle carried a mark indicating registration outside the United Kingdom, give information relating to the disposal to—
 - (i) the Secretary of State;
 - (ii) the Commissioners of Customs and Excise; and
 - (iii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1);
 - (c) where the vehicle did not carry any registration mark, give information relating to the disposal to the chief officer of the police force in whose area the vehicle was removed under paragraph (1);
 - (d) in the case of any vehicle, information relating to the disposal must be given to any person who appears to the custodian to have been the owner of the vehicle immediately before it was disposed of.

(14) Where, by virtue of paragraph (5), any sum is recoverable in respect of a vehicle by a custodian, the custodian is entitled to retain custody of the vehicle until that sum is paid.

(15) A person (“the claimant”) may take possession of a vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under this article, if the conditions specified in paragraph (16) are satisfied.

(16) The conditions are that—

- (a) the claimant satisfies the custodian that the claimant is the owner of the vehicle or that the claimant is authorised by the owner to take possession of the vehicle;
- (b) all outstanding relevant charges are paid to the custodian; and
- (c) the claimant takes possession of the vehicle within 7 days of the custodian being satisfied that—
 - (i) the claimant is the owner of the vehicle or is authorised by the owner to take possession; and
 - (ii) any relevant charges have been paid to the custodian.

(17) Where it appears to the custodian that more than one person is the owner of the vehicle, or person authorised by the owner, the custodian must give possession of the vehicle to the first claimant who satisfies the conditions set out in paragraph (16).

(18) If before the end of the period of one year beginning with the date on which a vehicle is disposed of pursuant to this article, 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 (19) are fulfilled, a sum calculated in accordance with paragraph (20) is payable by the custodian to the owner.

(19) The conditions are that—

- (a) the person claiming satisfies the custodian that the person so claiming was the owner of the vehicle at the time it was disposed of;
- (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; and
- (c) no previous claim in respect of the vehicle has been made.

(20) The sum payable under paragraph (18) is calculated by deducting from the proceeds of sale the relevant charges that would have been payable had the vehicle been claimed by the owner immediately before its disposal.

(21) Where it appears to the custodian of a vehicle that more than one person is the owner, the custodian must treat the first person who makes a claim that satisfies the conditions set out in paragraph (19) as the owner for the purposes of this article.

(22) For the purposes of this article the owner of a vehicle is taken to be the person by whom the vehicle is kept and in determining for those purposes who was the owner of the vehicle at any time, it is presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994.

(23) For the purposes of this article “breaking down” includes by way of a mechanical defect, lack of fuel, oil, water or power required for the vehicle or any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories drive it under its own power away from the tunnel area.

(24) In this article—

“GB registration mark” means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994;

“HPI Ltd” means HPI Limited (company number 04068979), whose registered office is at Capitol House, Bond Court, Leeds, Yorkshire, England, LS1 5EZ, being a company incorporated under the Companies Act 1985 and includes its successors and assigns;

“information relating to the disposal” means, in relation to a vehicle—

- (a) any information which is sufficient to relate the information now being given to any information previously given to the same person in respect of the removal, storage or disposal of the vehicle;
- (b) such of the specified information as has not been previously given to the same person in respect of the removal, storage or disposal of the vehicle; and
- (c) information as to whether the vehicle was disposed of by destruction or by sale and if by sale, the sum realised.

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“person responsible”, in relation to a vehicle, means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in paragraph (1), unless the owner demonstrates that the owner was not concerned in, and did not know of, the vehicle being put in the tunnel area;
- (b) any person by whom the vehicle was put in that place;
- (c) any person convicted of an offence under section 2(1) (penalty for unauthorised dumping) of the Refuse Disposal (Amenity) Act 1978(2) in consequence of the putting of the vehicle in that place;

“relevant charges” means the sums and charges prescribed by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008(3);

“specified information”, in relation to a vehicle, means such of the following information as can be, or could have been, ascertained from an inspection of the vehicle, or has been ascertained from any other source—

- (a) in the case of a vehicle which carries a GB registration mark, or a mark indicating registration in a country outside Great Britain, particulars of such mark; and
- (b) the make of the vehicle; and

“vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

(2) 1978 c. 3. Section 2(1) was amended by section 46 of the Criminal Justice Act 1982 (c. 48).
(3) S.I. 2008/2095, as amended by S.I. 2008/3013.