This Statutory Instrument has been made in consequence of defects in S.I. 2011/1120 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2015 No. 854

ROAD TRAFFIC

The Motor Vehicles (Insurance Requirements) (Immobilisation, Removal and Disposal) (Amendment) Regulations 2015

Made - - - -	*23rd March 2015*
Laid before Parliament	*25th March 2015*
Coming into force - -	*30th June 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 144D(1) and 160(1) of, and Schedule 2A, to the Road Traffic Act 1988(**a**).

Representative organisations have been consulted in accordance with section 195(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Insurance Requirements) (Immobilisation, Removal and Disposal) (Amendment) Regulations 2015 and come into force on 30th June 2015.

Amendments to the Motor Vehicles (Insurance Requirements) (Immobilisation, Removal and Disposal) Regulations 2011

2. The Motor Vehicles (Insurance Requirements) (Immobilisation, Removal and Disposal) Regulations 2011(**b**) are amended as follows—

(a) in regulation 10 for paragraph (5) substitute—

"(5) Where it appears to the custodian of a vehicle that more than one person is the owner—

(a) the notice under paragraph (3)(c)(ii) must be sent to all persons appearing to be the owner of the vehicle; and

(b) the vehicle may not be disposed of in accordance with paragraph (2) unless all persons appearing to be owners have disclaimed all rights of ownership.";

(b) in regulation 11—

(i) in paragraph (1) for "14" substitute "13";

(**a**) 1988 c. 52; section 144D was inserted by section 22 of the Road Safety Act 2006 (c. 49) and Schedule 2A was inserted by section 22(3) of and Schedule 5 to the Road Safety Act 2006.

(**b**) S.I. 2011/1120.

(ii) for paragraph (3) substitute—

"(3) Where—

(a) it appears to a custodian of a vehicle that more than one person is the owner; and

(b) one of those owners, or a person authorised by one of those owners, has gained possession of the vehicle under regulation 12,

then the owner who gained possession of the vehicle under regulation 12 must be treated as the owner from whom the sum is recoverable.

(4) Where—

(a) it appears to a custodian of a vehicle that more than one person is the owner; and

(b) one of those owners has made a claim under regulation 13 that satisfies the conditions in regulation 13(2),

then the owner who made the claim under regulation 13 must be treated as the owner from whom the sum is recoverable.

(5) Where—

(a) it appears to a custodian of a vehicle that more than one person is the owner; and

(b) neither paragraph (3) nor paragraph (4) applies,

then those persons must be treated as jointly and severally liable for the prescribed charges.";

(c) in regulation 12 for paragraph (4) substitute—

"(4) Where it appears to a custodian of a vehicle that more than one person is the owner, 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 (2).";

(d) in regulation 13—

(i) at the end of paragraph (2)(a) omit "and";

(ii) at the end of paragraph (2)(b) for "." substitute "; and";

(iii) after paragraph (2)(b) insert—

"(c) no previous claim in respect of the vehicle has been paid.";

(iv) for paragraph (4) substitute—

"(4) Where it appears to a 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 (2) as the owner for the purposes of this regulation.";

(e) in regulation 14—

(i) for paragraph (4) substitute—

"(4) The authorised person must uphold the appeal if the authorised person is satisfied that—

(a) the ground in paragraph (1)(a)(i) or the ground in paragraph (1)(a)(ii) has been established; and

(b) the disputed charge has not been refunded.";

(ii) for paragraph (8) substitute—

"(8) If the court finds that—

(a) the ground in paragraph (1)(a)(i) or the ground in paragraph (1)(a)(ii) has been established; and

(b) the disputed charge has not been refunded,

it shall order the Secretary of State to refund the disputed charge.".

Signed by authority of the Secretary of State for Transport

Robert Goodwill
Parliamentary Under Secretary of State
Department for Transport

23rd March 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations ("the 2015 Regulations") amend the Motor Vehicles (Insurance Requirements) (Immobilisation, Removal and Disposal) Regulations 2011 ("the 2011 Regulations"). The amendments in regulation 2(a) to (d) of the 2015 Regulations have been made in response to the Joint Committee on Statutory Instruments ("JCSI") 25th report of Session 2010-12 which reported the 2011 Regulations for doubtful vires in four connected respects. Regulation 2(e) of the 2015 Regulations corrects a drafting error that was identified by the Department in relation to the test applied in paragraphs (4) and (8) of regulation 14 of the 2011 Regulations.

Regulation 2(a) of the 2015 Regulations substitutes a new paragraph (5) in regulation 10 of the 2011 Regulations. The new paragraph (5)(a) provides that where there appears to be more than one person who is the owner of the vehicle notice of the impounding should be sent to all persons appearing to be the owner. Paragraph (5)(b) provides that where a vehicle appears to have more than one owner it should not be disposed of under paragraph (2) (which allows disposal at any time where ownership rights have been disclaimed) unless all persons appearing to be owners have disclaimed their ownership rights.

Regulation 2(b)(i) of the 2015 Regulations corrects a cross referencing error in regulation 11(1) of the 2011 Regulations. Regulation 2(b)(ii) of the 2015 Regulations replaces paragraph (3) of regulation 11 with new paragraphs (3) to (5) which determine who is to be treated as liable for the prescribed charges where there appears to be more than one owner. The new paragraph (3) provides that where one of those persons takes possession of the vehicle under regulation 12 of the 2011 Regulations then that person will be liable for the prescribed charges. The new paragraph (4) provides that where one of those persons makes a claim under regulation 13 of the 2011 Regulations then the person who made that claim shall be treated as liable for the prescribed charges. The new paragraph (5) provides that in all other instances where there is more than one person who appears to be the owner those persons shall be treated as jointly and severally liable for the payment of the prescribed charges.

Regulation 2(c) of the 2015 Regulations substitutes a new paragraph (4) in regulation 12 of the 2011 Regulations which provides that where there appears to be more than one owner the custodian must give possession of the vehicle to the claimant who first satisfies the conditions set out in regulation 12(2) of the 2011 Regulations.

Regulation 2(d)(iii) of the 2015 Regulations inserts a new subparagraph (c) into regulation 13(2) of the 2011 Regulations to ensure that a custodian does not have to satisfy more than one claim in respect of the same vehicle. Regulation 2(d)(iv) of the 2015 Regulations substitutes a new regulation 13(4) in the 2011 Regulations. The new paragraph (4) provides that where there appears to be more than one owner the custodian must satisfy the claim of the claimant who first satisfies the conditions set out in regulation 13(2) of the 2011 Regulations.

Regulation 2(e) of the 2015 Regulations substitutes new paragraphs (4) and (8) in regulation 14 of the 2011 Regulations to correct problems with the cross-referencing and other drafting errors in the 2011 Regulations. The new paragraphs (4) and (8) provide that in order to succeed in an appeal the claimant must prove that one of the two conditions in regulation 14(1)(a) of the 2011 Regulations are met and the disputed amount must not have already been refunded.

A full regulatory impact assessment of the effect of the 2011 Regulations on the costs of business and the voluntary sector was undertaken and is available on www.legislation.gov.uk or from Pippa Brown at the Department for Transport Tel: 0207 944 2278 or email: PippaA.Brown@dft.gsi.gov.uk. A further impact assessment has not been undertaken for these Regulations as no impact on the private or voluntary sectors is foreseen. The Explanatory Memorandum is available alongside these Regulations at www.legislation.gov.uk.

A copy of the JCSI report on the 2011 Regulations can be found on http://www.parliament.uk/jcsi/.

As these Regulations have been made in consequence of defects in the 2011 Regulations, they are being issued free of charge to all known recipients of those Regulations.

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