STATUTORY INSTRUMENTS

1978 No. 889

ROAD TRAFFIC

The Removal and Disposal of Vehicles (Loading Areas) (Modification of Enactments) Regulations 1978

Made - - - -	19*th June* 1978
Laid before Parliament	28*th June* 1978
Coming into Operation	19*th July* 1978

The Secretary of State for Transport, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred by section 37(7) of the Local Government (Miscellaneous Provisions) Act 1976**(a)** and of all other enabling powers, hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Removal and Disposal of Vehicles (Loading Areas) (Modification of Enactments) Regulations 1978, and shall come into operation on 19th July 1978.

(2) In these Regulations—

"amendments" includes additions and omissions; and

"loading area" has the meaning given in section 37 of the Local Government (Miscellaneous Provisions) Act 1976.

(3) Any reference in these Regulations to any enactment is a reference to that enactment as amended, altered or extended by or under any enactment.

(4) The Interpretation Act 1889**(b)** shall apply for the interpretation of these Regulations as it applies for the Interpretation of an Act of Parliament.

2.—(1) Sections 20, 52 and 53 of the Road Traffic Regulation Act 1967**(c)**, as amended**(d)** (which among other things provide for the removal, storage and disposal of vehicles left on roads in contravention of a statutory prohibition) shall have effect, in relation to any vehicle which is or was in any part of a loading area while the parking of it in that part is or was prohibited by virtue of section 37 of the Local Government (Miscellaneous Provisions) Act 1976 (Control of parking on areas used for loading or unloading goods vehicles), with the amendments set out in Schedule 1 to these Regulations.

(2) The text of the said sections 20, 52 and 53 of the said Act of 1967, incorporating the said amendments, is set out in Schedule 2 to these Regulations.

(a) 1976 c. 57. **(b)** 1889 c. 63. **(c)** 1967 c. 76.

(d) The amended text is set out in Schedule 1 to S.I. 1967/1900 (as amended by S.I. 1975/1949) and has been further amended by 1972 c. 70, 1973 c. 65, and 1974 c. 50.

1st June 1978.

William Rodgers,
Secretary of State for Transport.

19th June 1978.

John Morris,
Secretary of State for Wales.

SCHEDULE 1

AMENDMENTS TO SECTIONS 20, 52 AND 53 OF THE ROAD TRAFFIC REGULATION ACT 1967

A. *Amendments to section 20*

(i) For subsection (1) substitute:—

"(1) The Secretary of State may by regulations make provision for the removal of any vehicle which is in any part of a loading area while the parking of it in that part is prohibited by virtue of section 37 of the Local Government (Miscellaneous Provisions) Act 1976".

(ii) Omit subsections (2), (3) and (5).

(iii) In subsection (7)—

In sub-paragraph (*a*), for "from a road" substitute "from a loading area", and for "from one position on a road to another position on that or another road" substitute "from one position in a loading area to another position in that loading area", and omit sub-paragraph (*b*).

SCHEDULE 1—*continued*

(iv) In subsection (8)—

—before the definition of "local authority" insert—

" "loading area" has the meaning given in section 37 of the Local Government (Miscellaneous Provisions) Act 1976";

—in the definition of "local authority" before "in relation to Wales", insert "and" and omit "and in relation to Scotland means the local highway authority";

—in the definition of "vehicle" omit "whether or not it is in a fit state for use on roads" and "any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and", and for "such a" substitute "the".

(v) In subsection (9) for "has been permitted to remain at rest or which has broken down" (where first appearing) substitute "is in any part of a loading area" and for the same words (where subsequently appearing) substitute "is in such area".

B. *Amendments to section 52*

(i) In subsection (1) for from the beginning to "section 39(2) thereof" substitute:—

"Where a vehicle is removed from a loading area in pursuance of regulations under section 20 of this Act—",

and in sub-paragraphs (*b*) and (*c*) omit "the chief officer of a police force or".

(ii) In subsection (2) omit from "and without prejudice" to the end of the subsection.

(iii) In subsection (2A) omit "the chief officer of a police force" and "chief officer or".

(iv) In subsection (3)—

in the definition of "appropriate authority", omit sub-paragraph (*a*) and for sub-paragraph (*b*) substitute "in relation to a vehicle removed from a loading area, the local authority in whose area is situated that part of the loading area from which the vehicle has been removed";

in the definition of "person responsible", in sub-paragraphs (*a*) and (*b*) for "put in the place" substitute "parked in the loading area", in sub-paragraph (*a*) for "put there" substitute "parked there", and omit sub-paragraph (*c*),

before the definition of "local authority" insert " "loading area" ."

(v) Omit subsections (5) and (7).

C. *Amendments to section 53*

(i) In subsection (1) for "or could at any time be" to "section 39(2) thereof" substitute—

"removed from a loading area in pursuance of regulations under section 20 of this Act—".

(ii) In subsection (5)—

In the definition of "competent authority" omit sub-paragraph (*a*) and for sub-paragraph (*b*) substitute—

"the local authority in whose area is situated the part of the loading area from which the vehicle has been removed",

before the definition of "local authority" insert " "loading area"."

SCHEDULE 2

THE TEXT OF SECTIONS 20, 52 AND 53 OF THE ROAD TRAFFIC REGULATION ACT 1967 AS MODIFIED BY THE REMOVAL AND DISPOSAL OF VEHICLES (LOADING AREAS) (MODIFICATION OF ENACTMENTS) REGULATIONS 1978.

Removal of vehicles illegally parked in loading areas.

20.—(1) The Secretary of State may by regulations make provision for the removal of any vehicle which is in any part of a loading area while the parking of it in that part is prohibited by virtue of section 37 of the Local Government (Miscellaneous Provisions) Act 1976.

(2) [Omitted]

(3) [Omitted]

(4) Any vehicle removed by the council of a London borough or the Common Council of the City of London under regulations under this section shall be delivered by them to the Greater London Council in accordance with such arrangements (including arrangements as to the sharing of any expenses incurred or sums received by the council and the Greater London Council under this Part of this Act) as may be agreed between the council and the Greater London Council or, in default of agreement, as may be determined by the Secretary of State.

(4A) Any vehicle removed by the council of a district in England under regulations under this section shall be delivered by them to the council of the county comprising the district in accordance with such arrangements (including arrangements as to the sharing of any expenses incurred or sums received by the district council and the county council under this Part of this Act) as may be agreed between the district council and the county council or, in default of agreement, as may be determined by the Secretary of State.

(5) [Omitted]

(6) While a vehicle is in the custody of an authority in pursuance of this section or of regulations under this section, other than a vehicle which in the opinion of that authority is in such a condition that it ought to be destroyed, it shall be the duty of that authority to take such steps as are reasonably necessary for the safe custody of the vehicle.

(7) Regulations under this section—

(*a*) may provide, in the case of a vehicle which may be removed from a loading area, for the moving of the vehicle from one position in a loading area to another position in that loading area;

(*b*) [Omitted]

(*c*) may be made so as to apply either generally or in such circumstances only as may be specified in the regulations; and

(*d*) may make different provision for different classes of vehicles.

(8) In this section—

"loading area" has the meaning given in section 37 of the Local Government (Miscellaneous Provisions) Act 1976;

"local authority" in relation to England means the Greater London Council or the council of a county, and in relation to Wales means the council of a county or district;

"prescribed" means prescribed by regulations made by the Secretary of State; and

"vehicle" means any vehicle, and includes any load carried by and anything attached to the vehicle.

(9) Any reference in this section to a vehicle which is in any part of a loading area includes a reference to a vehicle which is in such area before the coming into force of the provisions contained in this section.

SCHEDULE 2—*continued*

Charges for removing, storing and disposing of vehicles.

52.—(1) Where a vehicle is removed from a loading area in pursuance of regulations under section 20 of this Act—

(*a*) the appropriate authority shall be entitled to recover from any person responsible such charges as may be prescribed in respect of the removal of the vehicle;

(*b*) a local authority in whose custody any such vehicle is during any period shall be entitled to recover from any person responsible charges ascertained by reference to a prescribed scale in respect of that period; and

(*c*) a local authority who dispose of any such vehicle in pursuance of section 53 of this Act shall be entitled to recover from any person responsible charges determined in the prescribed manner in respect of its disposal.

(2) Any sum recoverable by virtue of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction or, in the case of a sum not exceeding £20, summarily as a civil debt.

(2A) Without prejudice to subsection (2) above, where, by virtue of paragraph (*a*) or paragraph (*b*) of subsection (1) above, any sum is recoverable in respect of a vehicle by a local authority in whose custody the vehicle is, the authority shall be entitled to retain custody of it until that sum has been paid.

(3) In this section—

"appropriate authority" means—

(*a*) [Omitted];

(*b*) in relation to a vehicle removed from a loading area, the local authority in whose area is situated that part of the loading area from which the vehicle has been removed;

"person responsible", in relation to a vehicle means—

(*a*) the owner of the vehicle at the time when it was parked in the loading area from which it was so removed, unless he shows that he was not concerned in and did not know of its being parked there;

(*b*) any person by whom it was parked in the loading area aforesaid;

(*c*) [Omitted]

"prescribed" means prescribed by regulations made by the Secretary of State; and

"loading area", "local authority" and "vehicle" have the meanings respectively assigned to them in section 20(8) of this Act.

(4) For the purposes of this section a vehicle removed as aforesaid by the council of a London borough or the Common Council of the City of London shall be treated as in the custody of the Greater London Council while it was in the custody of the council by whom it was so removed, and a vehicle so removed by the council of a district in England shall be treated as in the custody of the council of the county comprising the district while it was in the custody of the district council by whom it was so removed.

(5) [Omitted]

(6) Regulations under this section may make different provision for different classes of vehicles.

(7) [Omitted]

Disposal of abandoned vehicles.

53.—(1) Subject to subsection (3) of this section, a competent authority may, in such manner as they think fit, dispose of a vehicle which appears to them to be abandoned and which has been removed from a loading area in pursuance of regulations under section 20 of this Act—

SCHEDULE 2—*continued*

(*a*) in the case of a vehicle which in their opinion is in such a condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, at any time after its removal;

(*b*) in the case of a vehicle which in their opinion is in such condition that it ought to be destroyed and on which a current licence was so displayed, at any time after the licence expires;

(*c*) in any other case, at any time after such steps as may be prescribed have been taken by a competent authority (or partly by one competent authority and partly by the other) to find a person appearing to the authority taking such steps to be the owner of the vehicle and either—

(i) they have failed to find such a person, or

(ii) he has failed to comply with a notice served on him in the prescribed manner by a competent authority requiring him to remove the vehicle within the prescribed period from their custody,

but not earlier, in a case where it appears to the authority proposing to dispose of the vehicle that a licence is in force in respect of the vehicle, than the expiration of the licence.

(2) The Secretary of State may by regulations require an authority by whom a vehicle is disposed of in pursuance of this section to give such information relating to the disposal as may be prescribed to such persons as may be prescribed.

(3) If before a vehicle is disposed of by an authority in pursuance of the foregoing provisions of this section the vehicle is claimed by a person who satisfies the authority that he is its owner and pays to the authority entitled thereto such sums in respect of its removal and storage as may be prescribed, the authority shall permit him to remove the vehicle from their custody during such period as may be prescribed; and if before the expiration of the period of one year beginning with the date on which a vehicle is sold by an authority in pursuance of this section any person satisfies that authority that at the time of its sale he was the owner of the vehicle, that authority shall pay over to him any sum by which the proceeds of sale exceed the aggregate of such sums in respect of the removal, storage and disposal of the vehicle as may be prescribed.

(4) If in the case of any vehicle it appears to such authority as aforesaid that more than one person is or was its owner at the relevant time, such one of them as the authority think fit shall be treated as its owner for the purposes of subsection (3) of this section.

(5) In this section—

"competent authority", in relation to a vehicle, means—

(*a*) [Omitted]

(*b*) the local authority in whose area is situated the part of the loading area from which the vehicle has been removed;

"licence" means, in relation to a vehicle, a licence issued for the vehicle under the Vehicles (Excise) Act 1971(a);

"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;

"prescribed" means prescribed by regulations made by the Secretary of State; and

"loading area", "local authority" and "vehicle" have the meanings respectively assigned to them in section 20(8) of this Act.

(6) Regulations under this section may make different provision for different classes of vehicles.

(a) 1971 c. 10.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations adapt sections 20, 52 and 53 of the Road Traffic Regulation Act 1967, which relate to the removal, storage and disposal of vehicles left on roads in contravention of a statutory prohibition, so that these provisions may be used in relation to vehicles standing in any part of a goods vehicle loading area while parking on that part is prohibited by virtue of section 37 of the Local Government (Miscellaneous Provisions) Act 1976 (which provides for the control of parking on areas used for loading or unloading goods vehicles).

The adaptations comprise mainly the omission of certain provisions in sections 20, 52 and 53 of the 1967 Act which are irrelevant in relation to vehicles parked in goods vehicle loading areas, the omission of those provisions which involve the exercise of certain functions by the police and the omission of the provisions relating to Scotland (as the Local Government (Miscellaneous Provisions) Act 1976 does not extend to Scotland). Certain necessary alterations in wording are also provided for.

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