STATUTORY INSTRUMENTS

1961 No. 1473 (S. 89)

ROAD TRAFFIC

The Removal of Vehicles (Scotland) Regulations, 1961

Made - - - -	*28th July*, 1961
Laid before Parliament	*4th August*, 1961
Coming into Operation	*1st September*, 1961

In exercise of the powers conferred on me by sections 43 and 239 of the Road Traffic Act, 1960(a), section 16 of the Road Traffic and Roads Improvement Act, 1960(b), and of all other powers enabling me in that behalf, and after consultation with representative organisations in accordance with the provisions of subsection (2) of section 260 of the Road Traffic Act, 1960, I hereby make the following regulations:—

PART I
GENERAL

1. These regulations may be cited as the Removal of Vehicles (Scotland) Regulations, 1961, and shall come into operation on the first day of September, 1961.

2. The Removal of Vehicles (Scotland) Regulations, 1957(c), are hereby revoked.

3.—(1) In these regulations—

(*a*) the expression "local authority" means a county council or a town council;

(*b*) the expression "owner" has the same meaning as in the Road Traffic Act, 1960;

(*c*) references to the removal of a vehicle from a road are references to the removal of that vehicle from that road to a place which is not on that or any other road;

(*d*) references to removing, moving or making arrangements for the safe custody of a vehicle shall respectively include references to removing, moving or making arrangements for the safe custody of any load carried by the vehicle;

(*e*) the expression "relevant statutory prohibition or restriction" means a prohibition or restriction contained in, or having effect under, any of the enactments mentioned in the Schedule to these regulations; and

(*f*) references to any enactment shall be construed as references to that enactment as amended or extended by or under any subsequent enactment.

(2) The Interpretation Act, 1889(d), shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament, and as if for the purposes of section 38 of that Act these regulations were an Act of Parliament and the regulations revoked by Regulation 2 of these regulations were an Act of Parliament thereby repealed.

(a) 8 & 9 Eliz. 2. c. 16.
(b) 8 & 9 Eliz. 2. c. 63.
(c) S.I. 1957/676 (1957 II, p. 2106).
(d) 52 & 53 Vict. c. 63.

PART II

REMOVAL OF VEHICLES FROM ROADS

4.—(1) This regulation applies to a vehicle which—

(*a*) has broken down, or been permitted to remain at rest, on a road in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the road or as to be likely to cause danger to such other persons, or

(*b*) has been permitted to remain at rest on a road in contravention of any relevant statutory prohibition or restriction.

(2) A constable may require the owner, driver or other person in control or in charge of any vehicle to which this regulation applies to move it or cause it to be moved, and any such requirement may include a requirement that the vehicle shall not be moved to any such road or to any such position on a road as may be specified.

(3) Any person who fails to comply as soon as practicable with any requirement given under this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

(4) For the purpose of sub-paragraph (*b*) of paragraph (1) of this regulation a vehicle which has broken down and has remained at rest for any period in any position on a road shall be treated as if it had been permitted to remain at rest in that position throughout that period.

5. Where a vehicle—

(*a*) is a vehicle to which Regulation 4 of these regulations applies, or

(*b*) having broken down on a road, appears to have been abandoned, or

(*c*) has been permitted to remain at rest on a road in such a position or in such condition or in such circumstances as to appear to have been abandoned,

a constable may remove the vehicle or arrange for it to be removed from that road or may move it or arrange for it to be moved to another position on that or another road:

Provided that the powers conferred on a constable by this regulation shall not be exercised in the case of any vehicle by reason only of its being a vehicle which is causing obstruction unless the constable is of the opinion that, having regard to all the circumstances, the extent of the obstruction which the vehicle is causing is so serious that the vehicle ought not to remain where it is.

6. Where a vehicle—

(*a*) having broken down on a road in the area of a local authority, appears to have been abandoned, or

(*b*) has been permitted to remain at rest on a road in the area of a local authority in such position or in such condition or in such circumstances as to appear to have been abandoned,

any person duly authorised by the local authority may remove the vehicle or arrange for it to be removed from that road.

7. Any person removing or moving a vehicle under these regulations may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove or move it as aforesaid.

8. Where a constable or a person duly authorised by a local authority removes or makes arrangements for the removal of a vehicle from a road under these regulations he shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.

PART III

DISPOSAL OF VEHICLES ABANDONED ON ROADS

9. A competent authority (within the meaning of section 16 of the Road Traffic and Roads Improvement Act, 1960) may as respects a vehicle which has been, or could at any time be, removed by that authority from a road in pursuance of these regulations, if it appears to them to have been abandoned, sell or otherwise dispose of the vehicle:

Provided that the power of disposal conferred by this regulation shall not be exercisable in the case of a vehicle unless there have been taken by the competent authority such of the following steps as are applicable to the vehicle and there has elapsed a period of six weeks beginning with the taking of the first of those steps.

10.—(1) Subject to the provisions of Regulation 16 of these regulations, where a vehicle carries a registration mark issued under the Vehicles (Excise) Act, 1949(a),—

(*a*) in a case where the competent authority are the county or the town council with which that vehicle is registered under that Act, they shall ascertain from their records the name and address of the person who it appears is the owner of that vehicle;

(*b*) in any other case the competent authority shall apply in writing to the council with whom they have reason to believe the vehicle was last registered inquiring who it appears may be the owner of the vehicle and the address of that person.

(2) Where a competent authority act under this regulation the first step for the purpose of the last preceding and the next succeeding regulation, shall be taken to be the sending of the notice mentioned in Regulation 11.

11. A competent authority shall, where they are by virtue of the last preceding regulation aware of the name and address of a person who it appears may be the owner of the vehicle, send a notice to that person at that address stating that it is the intention of the competent authority to sell or otherwise dispose of the vehicle (which shall be sufficiently described in the notice) on or after a specified date (which shall not be less than two weeks from the date of the notice and in any event not earlier than six weeks from the date of the first step taken by the competent authority under this Part of these regulations) unless it is in the meantime removed by or on behalf of that person from such place as is specified by the competent authority in the said notice or from such other place as may be subsequently notified in writing by the authority to that person.

12. If any person to whom a notice is sent in accordance with the last preceding regulation informs the competent authority of the name and address of some other person who he alleges may be the owner of the vehicle, a notice stating the particulars mentioned in the last preceding regulation shall be sent to that other person and to any further person who the competent authority may in consequence of the sending of the notice to the said other person be led to believe may be the owner of the vehicle.

(a) 12, 13 & 14 Geo. 6. c. 89.

13. Subject to the provisions of Regulation 16 of these regulations, where a vehicle does not carry a registration mark issued under the Vehicles (Excise) Act, 1949, the first step to be taken shall be, if the competent authority is a chief officer of a police force, to apply in writing to the local authority in whose area is the place from which the vehicle has been, or could at any time be, removed in pursuance of these regulations inquiring of the local authority who they consider is the owner of the vehicle and the address of that person or, if the competent authority is a local authority, to apply in writing to the chief officer of the police force in whose area is such place inquiring who that officer considers is the owner of the vehicle and the address of that person.

14. If, after steps have been taken under the foregoing provisions of this Part of these regulations, a vehicle is not claimed, the competent authority shall make such further inquiries (if any) as they consider reasonable as to who may be the owner of the vehicle and the address of that person.

15. Where by virtue of Regulation 13 or 14 of these regulations a competent authority are informed of the name and address of a person who it is considered may be the owner of the vehicle, Regulations 11 and 12 of these regulations as respects the sending of notices shall apply in relation to that person at that address as they apply in relation to the person mentioned in the said Regulation 11.

16. Nothing in the foregoing provisions of this Part of these regulations shall require a competent authority to take any such step as is therein mentioned for the purpose of inquiring who is the owner of a vehicle to which Regulation 9 of these regulations applies, if they have found a person who satisfies them that he is in fact the owner of that vehicle and they have sent him at his address a notice and containing the particulars specified in Regulation 11 of these regulations, the sending of the notice being treated as the first step for the purposes of that regulation, and of the said Regulation 9.

17. Upon the sale of a vehicle by a competent authority, the authority shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by them in connection with the disposal thereof and of any charge to payment of which they are entitled as regards the vehicle under section 15 of the Road Traffic and Roads Improvement Act, 1960.

18. In the event of any such costs incurred by them in connection with the disposal of the vehicle not being satisfied by virtue of the last preceding regulation, the competent authority may recoup those costs so far as not satisfied from the person who was the last owner of the vehicle before it was removed from a road either in pursuance of these regulations or after it had been disposed of by virtue of the power of disposal conferred by these regulations, if that person was sent by the competent authority a notice under the foregoing provisions of this Part of these regulations stating the particulars mentioned in Regulation 11 of these regulations.

19. Any sums received by the competent authority on a sale of the vehicle, after deducting any sum applied thereout by virtue of Regulation 17 of these regulations, shall be payable within a period of one year from the date of the sale of the vehicle to any person to whom, but for such sale,

the vehicle would have belonged, and in so far as any such sums are not claimed within the said period they shall, if the competent authority is a chief officer of a police force, be paid into the police fund (as defined in the Police Pensions Act, 1921(a)) and, if the competent authority is a local authority, be paid into the general rate fund of that authority.

20. Where under the foregoing provisions of this Part of these regulations a notice is required to be, or may be, sent to a person the notice shall be sent by registered post or by the recorded delivery service.

Dated this twenty-eighth day of July, 1961.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

SCHEDULE

Section 385 (2) of the Burgh Police (Scotland) Act, 1892(b) (which permits a town council to regulate traffic in a burgh).

Section 2 of the Parks Regulations (Amendment) Act, 1926(c) (authorising the making of regulations as to Royal Parks).

Sections 14, 51 and 52 of the Road Traffic Act, 1960(d) (which makes it an offence to fail to conform to the indications given by certain traffic signs and relate to the placing of traffic signs).

Section 26 of the Road Traffic Act, 1960 (which authorises the making of orders regulating traffic on roads) and paragraph 13 of the Nineteenth Schedule to the Road Traffic Act, 1960 (which provides that any byelaw made under section 104 of the Roads and Bridges (Scotland) Act, 1878(e), or paragraphs (1) and (3) of section 385 of the Burgh Police (Scotland) Act, 1892, which is in force at the commencement of the Road Traffic Act, 1960, shall continue in force and have effect as if it were an order made under section 26 of the Road Traffic Act, 1960).

Section 36 of the Road Traffic Act, 1960 (which provides for traffic regulation in consequence of the execution of works).

Section 37 of the Road Traffic Act, 1960 (authorising the making of regulations with respect to the use of special roads).

Section 46 of the Road Traffic Act, 1960 (authorising the making of regulations for crossings for foot passengers).

Sections 53 and 54 of the Road Traffic Act, 1960 (which empower the police to place traffic signs relating to special traffic regulations and temporary signs for dealing with traffic congestion and danger).

Sections 85 to 88 of the Road Traffic Act, 1960 (relating to parking places for vehicles).

Section 11 of the Road Traffic and Roads Improvement Act, 1960(f) (making amendments as to local authorities' parking places).

Any enactment contained in a local Act, being an enactment imposing or authorising the imposition of a prohibition or restriction similar to any prohibition or restriction which is or can be imposed by or under any of the above-mentioned enactments.

(a) 11 & 12 Geo. 5. c. 31.
(b) 55 & 56 Vict. c. 55.
(c) 16 & 17 Geo. 5. c. 36.
(d) 8 & 9 Eliz. 2. c. 16.
(e) 41 & 42 Vict. c. 51.
(f) 8 & 9 Eliz. 2. c. 63.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations re-enact with amendments the Removal of Vehicles (Scotland) Regulations, 1957. The main changes are:—

1. The powers of a constable to move a vehicle on a road or to remove it from a road on the ground of obstruction are no longer made subject to the limitations contained in the earlier Regulations, namely, that the constable must be of the opinion that the vehicle is so near a road junction as to interfere with the passage of other vehicles at that junction or that it is so far from the edge of the carriageway or so near another vehicle that the passage of other vehicles along the road is unduly restricted (Regulation 5).

2. Certain local authorities are empowered to remove from roads in their areas vehicles which, having broken down or been left, appear to have been abandoned (Regulation 6).

3. The police and local authorities are authorised to sell or otherwise dispose of a vehicle which has been removed by them from a road in pursuance of the Regulations and appears to them to have been abandoned. This power of disposal is exercisable only after six weeks have elapsed following the taking of the first of certain specified steps designed to give opportunity for enabling the vehicle to be claimed. Provision is made with respect to the application and disposal of the proceeds of sale of a vehicle which has been sold (Part III of the Regulations).