

Removal, Storage and Disposal of Vehicles Regulations

Consultation Paper

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Scottish Government
Riaghaltas na h-Alba
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Removal, Storage and Disposal of Vehicles Regulations

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2018

1. Foreword by the Cabinet Secretary for Justice and Cabinet Secretary for the Environment, Climate Change and Land Reform



This consultation document seeks views on new levels of charges applied to the removal, storage and disposal of vehicles in Scotland. These charges will apply where the police or local authority have cause to remove or recover a vehicle in particular sets of circumstances. The vast majority of these recoveries are carried out on behalf of the police under the Vehicle Recovery Scheme managed by a managing agent using various recovery operators across Scotland.

Removals ordered by the police are necessary in a variety of situations including enforcing the law and also to remove obstructions and potential dangers. In some cases the police may need to remove a vehicle for forensic examination. The local authority may also require to remove vehicles in circumstances where vehicles have become abandoned or are parked in contravention with the law.

The charges were last subject of a review in 2005 and since this time there have been inflationary and increased costs applied to this type of work. We feel it is now time to review the charges to ensure that they are fair both to those carrying out the recoveries and to those whose vehicles are being recovered.

This public consultation is to allow adequate consideration to be given prior to regulations being laid before Parliament to introduce revised charges. We look forward to hearing your views.

**Michael Matheson
Cabinet Secretary for Justice
&
Roseanna Cunningham
Cabinet Secretary for the Environment
Climate Change and Land Reform**

2. INTRODUCTION

2.1 This consultation document seeks views on changes to the **Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005**¹ and the **Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005**². The aim of these changes will be to put in place revised charges that would apply when the police or local authorities invoke their legislative powers to remove, store or dispose of vehicles. The Scottish Government has prepared a draft set of charges, and these are set out in **Annex E** of this document.

2.2 The consultation document sets out the background to the current legislation covering powers to remove and store vehicles, and the charges that are applicable when doing so. The document also describes the factors taken into account by the Scottish Government when developing the new proposals and explains what the Government is seeking to achieve through them.

2.3 Under section 99 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) and the Removal and Disposal of Vehicles Regulations 1986, the police have the power to remove vehicles that are illegally, obstructively, or dangerously parked, abandoned or broken down. The physical tasks of removal and subsequent disposal are carried out on behalf of the police by contracted recovery operators across Scotland as part of the Vehicle Recovery Scheme. The management of the Vehicle Recovery Scheme has been outsourced by Police Scotland to a managing agent as is currently the case in the majority of police forces across the UK.

2.4 Removals ordered by the police are necessary in order to enforce the law and to remove obstructions and potential dangers. They also help prevent theft of the vehicles, their use for criminal purposes, their becoming a focus for crime or environmental degradation and their being driven whilst in a dangerous condition (which may not be immediately apparent). In some cases the police may need to remove a vehicle for forensic examination.

2.5 The 1984 Act authorises the police to recover from the vehicle’s owner (or other person responsible) such charges as may be prescribed for the removal, storage and disposal of the vehicle. Under the current Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005 the current charges are: removal £150; storage £20 per day; disposal £150. These charges also apply to local authority powers under the 1984 Act to remove illegally parked vehicles. The charges have not been updated since 2005.

2.6 The police have separate powers under sections 126 and 127 of the Antisocial Behaviour etc. (Scotland) Act 2004 (“the 2004 Act”) to remove, store and dispose of vehicles being used in a manner causing alarm, distress or annoyance to the public. Charges are set out in the Police (Retention and Disposal of Motor Vehicles)

¹ <http://www.legislation.gov.uk/ssi/2005/486/contents/made>

² <http://www.legislation.gov.uk/ssi/2005/80/contents/made>

(Scotland) Regulations 2005. The current charge for removal is £105, and for storage £12 per day; there is no set charge for disposal.

2.7 The need for a review has arisen from the passage of time (involving both the effects of inflation and changes to the operational environment) as well as suggestions that the flat rate charges applying in respect of all vehicles, in all situations, in all parts of the country do not adequately reflect the different costs that may be incurred.

2.8 It is the Scottish Government's preferred position that the regulations should be similar in nature to the matrix system used in England & Wales since 2008. This matrix system is already used in Scotland when vehicles are seized for having no licence or insurance under section 165A of the Road Traffic Act 1988 ("the 1988 Act")³ and it would in our opinion be appropriate to harmonise the regulations for all types of recoveries carried out in Scotland. It would also allow business owners operating on a UK wide basis some consistency when operating on a cross border basis.

2.9 This consultation focuses on possible changes in respect of statutory charges for vehicle removal, storage and disposal. It does not cover or seek to cover the circumstances in which the police use their power to order vehicle removal, or the way in which they use the power, or issues surrounding the operation of recovery schemes and contracts. These are matters for the police, in consultation with interested parties as they consider appropriate.

2.10 The consultation period will run for 12 weeks and conclude on the 6th of August 2018.

3. Background information on regulations

3.1 Why carry out a review of statutory fees? As explained above, there have been significant changes in costs since the regulations were last reviewed in 2005, and there have been suggestions that the approach of flat rate charges does not adequately cover the range of different circumstances in which vehicles might need to be removed.

3.2 The Scottish Government wishes to explore how far it might be possible to prescribe more case-sensitive charges. These would be designed to meet more closely the varying interests of police, vehicle recovery operators, the road haulage industry, commercial and private motorists and insurers. The Regulations may make different provision for different cases or classes of case or in respect of different areas.

3.3 The Scottish Government takes the view that the charges should not be punitive or an income generator for the police, but should be set at such a level as to make removal operations viable. An increase in charges to some degree is necessary because otherwise it is likely to become uneconomic for contractors to continue

³ <http://www.legislation.gov.uk/ukxi/2008/2097/made>. The Road Traffic Act 1988 is in general reserved, therefore the UK government legislates for the whole of the UK including Scotland.

these operations. If contractors decided to stop work for the police, this would have a detrimental effect on the police's ability to enforce the law and remove obstructions or potential dangers, and their ability to prevent theft of the vehicles, their being used for crime or becoming a focus for crime or environmental degradation or being driven in a dangerous condition.

3.4 The Scottish Government also wishes to make clear that the aim of the charges has never been to impose a penalty on vehicle drivers or owners. This remains the case. The need for removal of a vehicle does not necessarily result entirely, or at all, from a culpable action or neglect on the part of the owner or driver. Where a criminal offence might have been committed, it is for the police to deal with that as a separate matter.

3.7 There will be occasions where the owner/driver of the vehicle can recover the vehicle using their own recovery agents. It does, however, have to be recognised that there needs to be a balance between the choice of the owner or driver to have their vehicle recovered and the duty on the police to investigate crime and also ensure the road networks remain open and free from obstructions.

4. Summary of current legislation

4.1 This section aims to provide a general explanation of the powers of the police to remove and dispose of vehicles. This will help set in context the proposals in regard to the current statutory charges for removal, storage and disposal of vehicles.

4.2 Under section 99 of the Road Traffic Regulation Act 1984 the Secretary of State is able to make regulations for the removal of vehicles. Using this regulation making power, the Removal and Disposal of Vehicles Regulations 1986 were made. These Regulations (in brief) give the police the power to remove or order the removal of vehicles that are illegally, obstructively, or dangerously parked, abandoned or broken down. The physical task of removal and subsequent storage and disposal are normally carried out on behalf of the police by contracted recovery operators. Police Scotland currently utilise managing agents to manage the scheme on their behalf.

4.3 In detail, regulations under section 99 provide for the police to have powers for the removal of vehicles which have been permitted to remain at rest:

- on a road in contravention of a statutory prohibition or restriction (i.e. they are illegally parked);
- 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 likely to cause danger to such persons;
- on a road, or on any land in the open air, in such a position or in such condition or in such circumstances as to appear to an authority empowered by the Regulations to remove such vehicles, to have been abandoned without lawful authority; or
- which have broken down on a road.

4.4 Removals are also necessary in order to help prevent theft of the vehicles, their use for criminal purposes, their becoming a focus for crime or environmental degradation and their being driven whilst in a dangerous condition (which may not be immediately apparent). In some cases the police may need to remove a vehicle for forensic examination. Removals are therefore an important routine activity for all police forces.

4.5 The following table provides a breakdown of the number of recoveries being carried out per year in Scotland under the separate pieces of legislation:

Legislation	Number of annual recoveries (January – December 2016)
The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005 (1984 Act)	16,004
The Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005 (2004 Act)	109
The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008 (section 165A of the 1988 Act)	8,214

4.6 Section 102(2) of the 1984 Act authorises the police to recover from the vehicle owner, or other responsible person:

- prescribed charges in respect of removal;
- charges by reference to a prescribed scale for storage; and
- charges determined in a prescribed manner in respect of disposal.

4.7 Section 103(3) of the 1984 Act allows different charges to be prescribed for different cases or classes of case or in respect of different areas. Section 101(4) requires the release of a vehicle to its owner, provided these charges are paid.

4.8 Section 142 defines “prescribed” as “prescribed in Regulations made by Scottish Ministers”. Section 134 requires that Scottish Ministers must consult with such representative organisations as they think fit before prescribing charges.

4.9 The current 1984 Act charges are set out in the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Regulations 1989, as most recently amended for Scotland by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005.

4.10 Section 127(2)(c) of the 2004 Act contains a power to make regulations about the payment of fees, charges or other costs relating to the removal, storage and release of vehicles seized in relation to their use in a manner likely to cause alarm distress or annoyance to members of the public. There is no authority to charge for disposal of vehicles in these circumstances. The current charges date from 2005

and are set out in the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005.

4.11 This consultation is concerned with possible changes to the Regulations made under the 1984 Act and the 2004 Act. Its aim is to establish the most appropriate charges. As explained above, the consultation is not concerned with the circumstances in which police use their power to order vehicle removal or the way in which they use the power. These are operational matters for the police, in consultation with interested parties as they consider appropriate. Similarly, this consultation is not concerned with the contracts which police forces might enter into with managing agents or recovery operators: that is a commercial matter for those parties.

4.10 The Scottish Government does, however, recognise the length of time that has elapsed since the last change to the statutory charges, the changing situations involved in removal, storage and disposal and the difficulties that may have resulted. The intention is to avoid problems arising in the future. A possible solution would be annual increases in line with the rate of inflation. This would, however, require consultation and the laying of a Scottish statutory instrument (SSI) each year to achieve what might be only a very small increase. The Scottish Government's initial view is that a full-scale review of the charges (covering both inflation and any other relevant costs) every three years should be undertaken. This would allow the system to be reviewed as well as the charges themselves. Any views on this proposal or other suggestions would be welcome.

5. Summary of current statutory charges

5.1 In Scotland, there are three separate regulations which contain statutory charges for the removal and disposal of vehicles. It is important to note that these are the sums that must be levied, rather than maximum permissible charges.

5.2 The first set of regulations relate to the powers of removal contained within the Road Traffic Regulations Act 1984. **The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc) Amendment (Scotland) Regulations 2005** sets the statutory charges as:

- Recovery: £150.00
- Storage: £20.00 per day
- Disposal: £150.00

5.3 The **Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005** for the removal of vehicles being used in an antisocial manner have the statutory charges set at:

- Recovery: £105.00
- Storage: £12.00 per day

5.4 The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 are made under section 165B of the Road Traffic Act 1988.

Section 165A and 165B⁴ relate to the seizure and retention of vehicles being driven with no driving licence or no insurance. These matters are reserved to the UK government under the devolution settlement. The statutory charges set out in those Regulations are commonly referred to as matrix billing and apply equally throughout the UK. The same charging matrix is used in the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 as amended by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) (Amendment) (England) Regulations 2008⁵. These do not apply in Scotland.

6. Stakeholder suggestions

6.1 This section sets out suggestions for changes made by stakeholders, as well as other factors taken into account when developing the proposals.

6.2 During engagement with stakeholders while this consultation was being developed, a variety of different figures were put forward for a matrix with different categories of vehicles attracting different charges.

6.3 As an alternative approach, some stakeholders have suggested introducing a menu system of charging. Under this option an overall charge would be built up from different prescribed charges for different elements of an operation, e.g. for each hour worked, for each person employed, for each type of recovery vehicle or other equipment used. The Scottish Government does not favour this option for a number of reasons. Firstly, the statutory power is for the Scottish Ministers to prescribe in regulations the charges to be levied in respect of removal of vehicles; it is not clear that would be achieved by setting out a menu of charges from which someone else chooses the elements to apply in relation to a particular recovery. Secondly, the Scottish Government considers that a menu system would be overly complex and lead to unnecessary and potentially costly arguments over what was or was not necessary in any individual case: there would probably need to be an arbitration or appeals system to resolve disputes. The Scottish Government is also concerned that building up an overall charge from prescribed charges for different elements could generate very high charges.

6.4 We are aware that a menu system operates in private removals outwith the vehicle recovery scheme, and **ANNEX F** gives examples of the types of fees that might be included in a menu approach. However, as explained above the Scottish Government is not persuaded at this stage that a menu system would be an appropriate mechanism for charging for these types of recoveries.

6.5 There have been suggestions from some parties that there should be a distinction made within the charges to allow more to be charged where a fatal accident has occurred. A recovery of this nature would typically be a lengthier undertaking, as the police would have to complete an accident investigation process which may include the recovery operator having to assist in recreating the scene as part of that process. The operator would also be required to preserve evidence for

⁴ [http://www.legislation.gov.uk/ukpga/1988/52/part/VII/crossheading/powers-of-constables-and-other-
authorised-persons](http://www.legislation.gov.uk/ukpga/1988/52/part/VII/crossheading/powers-of-constables-and-other-
authorised-persons)

⁵ <http://www.legislation.gov.uk/uksi/2008/2095/regulation/4/made>

possible criminal proceedings and as such, would normally be expected to fully lift the vehicle rather than utilise winches to ensure that the vehicle is preserved as best as possible pending an examination. There are other cost factors, including the need to secure the vehicle and have forensic examination facilities within the operator's place of business.

6.6 Operators highlighted that the level of damage to a vehicle can also impact how much it costs to remove that vehicle. There was general agreement that it was important to clearly define what constituted damage that legitimately affected the cost of removal. We are considering introducing a definition of 'significant damage' into the system of charging. This would provide operators and those being recovered with a basis for fees reaching higher thresholds.

6.7 Some operators have also suggested that they should be able to apply additional costs for travel where they have to go longer distances. This would be particularly relevant in rural areas; where operators are required to travel to another operator's area to assist; or where operators incur extra costs for ferry travel to the various islands within Scotland depending on the coverage in those remote areas. Suggestions are welcome regarding what distance would be regarded as reasonable within the regulations for an operator to travel and also what mileage rate would be deemed appropriate if additional mileage charges were allowed.

6.8 Insurance industry stakeholders have suggested that a system closely aligned with that in England and Wales would be their preferred choice, subject to some amendments to the wording of the matrix categories. Whilst this is a devolved area it must be recognised that, in particular, the haulage industry operate on a UK wide basis and having similar systems in place within each jurisdiction might be a sensible approach. We do, however, have to ensure that whatever system is implemented it meets the needs of road users in Scotland.

Requirements on police contractors

6.9 How much operators' costs have increased since 2005 is uncertain. There are obvious cases for increased costs such as employees' wages. There have also been increases to fuel and equipment costs over the last 13 years. Operators have also referred to the introduction of management schemes, whereby police contract with an agent to manage their recovery operators, rather than deal separately themselves with each operator on each occasion. It is, however, debatable whether this should be taken into account in the setting of charges since it relates more to the contractual arrangements into which the operators choose to enter.

6.10 Police contracts require operators to deal with a range of different vehicles, provide a guaranteed speedy response, and to have specialist equipment, secure storage facilities, and an efficient administration department. Vehicles are often accident-damaged, do not free wheel, are difficult to access, have restrictions due to forensic requirements and must be removed and stored with the highest standards of professionalism. Arguably, therefore, the costs to operators of carrying out statutory removal work under contract to the police are greater than the costs of operators working independently with individual customers and of other agencies, such as motoring clubs which remove vehicles on behalf of their members.

Unpaid charges

6.11 A proportion of charges for vehicles removed on police instruction goes unpaid. There are different views as to whether any account should be taken of this in the setting of fees. To do so is arguably unfair on insurers and motorists who do pay; on the other hand not to do so can involve undue costs falling on the operators or public purse. It is also the case that unclaimed vehicles can be disposed of and as much of the proceeds retained as cover the charges that should have been paid.

7. The Scottish Government's view

7.1 Taking into account evidence received to date from stakeholders, the Scottish Government's proposed approach is that a matrix system should be introduced as shown in **ANNEX E** of the consultation. In setting the charges the Scottish Government took account of the views, oral and written, that we received from stakeholders while developing the consultation. Generally, the charges are based on the proposed regulation that were laid in the Scottish Parliament in 2011 which were the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Scotland) Regulations 2011⁶. The proposed 2011 charges were subject to review from a variety of stakeholders who provided comments on the charges. There were also suggestions for variations in the number and detail of the scenarios to be used within the matrix.

7.2 There were a wide variety of opinions received regarding the matrix charges and indeed there was not always consensus within stakeholder groups as to what the charges should be. For example, for removal of a vehicle on a road under 3.5 tonnes and not damaged charges suggested ranged from £150 to £290. Each scenario within the matrix system attracted similar differences of opinion on the pricing involved.

7.3 The figures Scottish Ministers have decided to consult on are within the minima and maxima put forward. Scottish Ministers accept that there will be differing views over the charges, particularly, in broad terms, whether they are too high or too low. Apart from different parties' assessments of what would best suit their interests to claim as costs incurred, views as to what would be an appropriate charge in any case will also reflect genuine differences of opinion as to what is necessary for a particular removal or type of removal and different contractual requirements.

7.4 Scottish Ministers believe that the charges on which they have decided are the most reasonable outcome that is currently possible. They recognise however that the firm evidence for these is limited. Interested parties are therefore invited to gather information once the new charges have been implemented, to identify any problems that might arise over the available scenarios and their interpretation and to maintain comprehensive records of costs to inform any future changes. Scottish Ministers have already agreed that, in future, there will be regular reviews.

⁶ <http://www.legislation.gov.uk/ssi/2011/394/contents/made>

8. List of consultation questions

8.1 We have prepared a set of specific questions relating to the proposed new fee regulations. It would be useful for the purposes of the consultation if you could include in your response answers to these specific questions. We would also welcome any general or specific comments you have which are not included in these questions. Please read all the questions before deciding on a response to any individual question.

Q.1 Do you consider there should, as at present, be one flat rate charge for all removals ordered by the police or that there should be a number of different charges for different vehicle categories/incident scenarios Yes/No?

Q.2 If you believe there should be one flat rate charge, on what do you think that should be based and what do you think it should be?

Q.3 Vehicles removed on police instructions must be released to their owner on payment of any prescribed charge. If no charge is prescribed, they must be released on demand free of charge. Do you think there are any types of police ordered removal for which no charge should be prescribed?

Q.4 Under the Scottish Government's proposals, as set out in **ANNEX E**, the regulations would prescribe different charges for different vehicle categories and incident scenarios. Do you agree with the current categories and scenarios? If not, what factors do you think should be taken into account in deciding those scenarios (e.g., type of vehicle to be removed, vehicle condition, vehicle position including whether or not upright, geographical location, nature and state of any load; whether a fatal accident has occurred)?

Q.5 The Scottish Government's proposals, as set out in **ANNEX E**, include allowing for more to be changed for a recovery of a vehicle that is not upright or is "significantly damaged". Do you agree with this approach, and with the Scottish Government's definition of "significant damage"? If not, what alternative approach would you suggest?

Q.6 If you do not agree with the charges suggested by the Scottish Government, what charges would you suggest and on what would you base these?

Q.7 If you do not think it practical to identify satisfactorily all the broad scenarios that might be encountered, would you prefer that no charge were prescribed or that there should be a charge "for all other cases"? If the latter, what do you think this should be?

Q.8 Do you think the prescribed charges should take into account the fees recovery operators pay to belong to management schemes, or charges that are not paid, or any special requirements made of operators by the police? Are there other factors to consider, and if so how do you feel they should be reflected in charges?

Q.9 Do you think there any unintended consequences of the Scottish Government's proposals or other factors not currently taken into account?

Q.10 Should any prescribed charges be increased annually based on inflation (bearing in mind that this will require a Scottish statutory instrument to be prepared each year), or should the regulation be reviewed at specified times such as every 3 or 5 years?

Q.11 Are there any factors the Scottish Government should take into account to reflect on the experiences of the matrix system that has been operating in England and Wales since 2008?

9. Annex A - Responding to this Consultation

We are inviting responses to this consultation by 6th of August 2018.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at:

<https://consult.gov.scot/police-division/vehicles-charges>

You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) to:

VehicleRecoveryCharges@gov.scot

Or:

Police Division
Safer Communities
St Andrew's House
Edinburgh
EH1 3DG

If you have any queries, contact Catherine Lobban on 0131 244 2160.

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached included in this document to Catherine Lobban at the address above. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them by email to VehicleRecoveryCharges@gov.scot or in writing to:

Police Division
Safer Communities
St Andrew's House
Edinburgh
EH1 3DG

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



10. Annex B - RESPONDENT INFORMATION FORM REMOVAL, STORAGE AND DISPOSAL OF VEHICLES REGULATIONS

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Question 1

Q.1 Do you consider there should, as at present, be one flat rate charge for all removals ordered by the police or that there should be a number of different charges for different vehicle categories/incident scenarios Yes/No?

Comments

Q.2 If you believe there should be one flat rate charge, on what do you think that should be based and what do you think it should be?

Comments

Q.3 Vehicles removed on police instructions must be released to their owner on payment of any prescribed charge. If no charge is prescribed, they must be released on demand free of charge. Do you think there are any types of police ordered removal for which no charge should be prescribed?

Comments

Q.4 Under the Scottish Government's proposals, as set out in **ANNEX E**, the regulations would prescribe different charges for different vehicle categories and incident scenarios. Do you agree with the current categories and scenarios? If not, what factors do you think should be taken into account in deciding those scenarios (e.g., type of vehicle to be removed, vehicle condition, vehicle position including whether or not upright, geographical location, nature and state of any load)?

Comments

Q.5 The Scottish Government's proposals, as set out in **ANNEX E**, include allowing for more to be charged for a recovery of a vehicle that is not upright or is "significantly damaged". Do you agree with this approach, and with the Scottish Government's definition of "significant damage"? If not, what alternative approach would you suggest?

Comments

Q.6. If you do not agree with the charges suggested by the Scottish Government, what charges would you suggest and on what would you base these?

Comments

Q.7 If you do not think it practical to identify satisfactorily all the broad scenarios that might be encountered, would you prefer that no charge were prescribed or that there should be a charge "for all other cases"? If the latter, what do you think this should be?

Comments

Q.8 Do you think the prescribed charges should take into account the fees recovery operators pay to belong to management schemes, or charges that are not paid, or any special requirements made of operators by the police? Are there other factors to consider, and if so how do you feel they should be reflected in charges?

Comments

Q.9 Do you think there any unintended consequences of the Scottish Government's proposals or other factors not currently taken into account?

Comments

Q.10 Should any prescribed charges be increased annually based on inflation (bearing in mind that this will require a Scottish statutory instrument to be prepared each year), or should the regulation be reviewed at specified times such as every 3 or 5 years?

Comments

Q.11 Are there any factors the Scottish Government should take into account to reflect on the experiences of the matrix system that has been operating in England and Wales since 2008?

Comments

11. Annex C - THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government website enabling a wider audience to access the paper and submit their responses.

Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565). All Scottish Government consultation papers and related publications (e.g., analysis of response reports) can be accessed at: [Scottish Government consultations \(<http://www.scotland.gov.uk/consultations>\)](http://www.scotland.gov.uk/consultations).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise, the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

12. Annex D - The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008

Charges in relation to the removal of vehicles

1	<i>Vehicle position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
2	Vehicle on road, upright and not substantially damaged or any two wheeled vehicle whatever its condition or position on or off the road	£150	£200	£350	£350
3	Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both	£250	£650	Unladen—£2000	Unladen—£3000
				Laden—£3000	Laden—£4500
4	Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£400	Unladen—£1000	Unladen—£1500
				Laden—£1500	Laden—£2000
5	Vehicle, excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£300	£850	Unladen—£3000	Unladen—£4500
				Laden—£4500	Laden—£6000

Charges in relation to the storage of vehicles

	<i>Two wheeled vehicle</i>	<i>Vehicle, not including a two wheeled vehicle, equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
2	£10	£20	£25	£30	£35

13. Annex E – Specified amount for the removal, storage and disposal of a motor vehicle (Matrix system)

Column 1	Column 2	Column 3	Column 4	Column 5
<i>Vehicle type, position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
Any two-wheeled vehicle whatever its condition or position on or off road	£190	-	-	-
Any other vehicle on road, which is upright and is not significantly damaged	£190	£250	£440	£440
Any other unladen vehicle on road which is not upright or is significantly damaged	£315	£820	£2525	£3790
Any other laden vehicle on road which is not upright or is significantly damaged	£315	£820	£3790	£5680
Any other unladen vehicle off road, which is upright and is not significantly damaged	£250	£505	£1260	£1890
Any other laden vehicle off road, which is upright and is not significantly damaged	£250	£505	£1890	£2525
Any other unladen vehicle off road which is not upright or is significantly damaged	£380	£1075	£3790	£5680
Any other laden vehicle off road which is not upright or is significantly damaged	£380	£1075	£5680	£7570

Retention of a motor vehicle

Column 1	Column 2
<i>Type and weight of vehicle</i>	<i>Sum payable</i>
Any two wheeled vehicle	£13
Any other vehicle equal to or less than 3.5 tonnes MAM	£25
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£32
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£38
Any other vehicle exceeding 18 tonnes MAM	£44

Disposal of a motor vehicle

Column 1	Column 2
<i>Type and weight of vehicle</i>	<i>Sum payable</i>
Any two wheeled vehicle	£63
Any other vehicle equal to or less than 3.5 tonnes MAM	£95
Any other vehicle exceeding 3.5 tonnes MAM and equal to or less than 7.5 tonnes MAM	£126
Any other vehicle exceeding 7.5 tonnes MAM and equal to or less than 18 tonnes MAM	£158
Any other vehicle exceeding 18 tonnes MAM	£189

EXPLANATORY NOTES

Matrix prices revised from proposed 2011 regulations to take account of inflationary increases since these figures were originally calculated in 2008.

Significant damage is deemed to mean the vehicle being recovered cannot free wheel, or there is some problem with the gearing system, braking system or some other impediment to complicate the recovery of the vehicle. Significant damage does not include any other damage to the vehicle that does not impede the vehicle being recovered in the same way as a vehicle with no damage.

14. ANNEX F – Menu pricing example

CUSTOMER REQUESTED UPLIFTS

CALL OUT CHARGE	£115.00
LABOUR PER HOUR	£115.00
MILEAGE CHARGE PER MILE	£1.65
STORAGE PER DAY	£23.50

ALL ABOVE RATES ARE PLUS VAT

SPECIALIST CHARGES

PRESTIGE COVERED RECOVERY (PER HOUR)	£255.00
DAMAGE FREE CRANE RECOVERY	£315.00
CRANE RECOVERY UP TO 2490 Kgs	£275.00
CRANE FROM 2490 - 3500 Kgs	£295.00
CRANE RATE PER HOUR	£195.00
WINCHING CAR TO HARD STANDING (PER 1/2 HR)	£105.00
SECOND PERSON REQUIRED (FOR 1st HR)	£52.50
LABOUR FOR SECOND PERSON (AFTER 1st HR)	£52.50
USE OF GO JACKS OR SKATES (INC 1/2 HR LAB)	£65.00
USE OF DONOR WHEELS (PER WHEEL REQ)	£65.00
TOWING OF TRAILERS /CARAVANS (PER MILE)	£0.92
HITCHING UP TRAILERS/CARAVANS	£65.00

ALL ABOVE RATES ARE PLUS VAT

HEAVY RECOVERY RATES

CALL OUT	£145.00
LABOUR PER HOUR	£145.00
MILEAGE PER MILE	£2.61
CALLOUT OF CRANE MAC4	£425.00
HOURLY RATE	£395.00
CALLOUT OF CRANE	£395.00
HOURLY RATE	£395.00
SECOND PERSON FOR CRANE OPERATION (PER HR)	£72.50
TRAILERS OVER 18 FT REQ LIFT	£295.00
HGV AIR BAG USE	£350.00

ALL ABOVE RATES ARE PLUS VAT



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