



Response of the Road Haulage Association to the Scottish Government.

“Removal, Storage & Disposal of Vehicles Regulations”.

06/08/2018

Summary

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 and the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005. 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 vehicles. The Scottish Government has prepared a draft set of charges, and these are set out in Annex E of this document.

Background about the RHA

2. The RHA is the leading trade association representing road haulage and distribution companies, which operate HGVs as profit centres. Our 7,000 members, operating near to 250,000 HGVs, range from single-truck firms to those with thousands of vehicles. These companies provide essential services on which the people and businesses of the UK depend.
3. We proactively encourage a spirit of entrepreneurship, compliance, profitability, safety and social responsibility. We do so through a range of advice, representation and services, including training.
4. We would like to thank the Scottish Government for the consultation and the opportunity to comment on the issues raised.

Responses to questions

Question 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 vehicles categories/incident scenarios Yes/No?

One flat rate would not accurately represent the cost of recovery and as such hauliers could be charged inflated rates for the simplest of recovery, or recovery operators would not be fairly compensated for the more complex recovery operations.

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

The RHA does not believe there should be one flat rate charge for recovery operations in Scotland.

Question 3. Vehicle 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?

It seems unfair that where a vehicle has had to be recovered there are occasions where no charge is prescribed.

Question 4. Under the Scottish Governments 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 vehicles to be removed, vehicle condition, vehicle position including whether or not upright, geographical location, nature and state of any load)?

Comments from members tell us that the existing matrix in England does not accurately reflect the cost of the job. Two jobs, which require the same equipment, staff and time to complete would be charged at two very different rates which would suggest these rates need to be reviewed. For example, an HGV with a broken headlight is not roadworthy and as such would be deemed as “substantially damaged”, a vehicle involved in an RTA which has extensive front end is substantially damaged and a vehicle broken down that has no damage. All 3 of these examples can be recovered in the same manor yet have reportedly

been charged at different rates.

Recovery operators tell us that some rates are too low, while the top end of the scale are too high. Members also tell us that rates are as much as 50% of the matrix set prices when they arranged their own Recovery and it is not done through the Police & the Recovery Scheme. It is our opinion that these rates should be set on advice from the recovery sector, using operating costs that are evidence based for each of the scenario within the matrix which would set fair rates for ALL road users. Any management fees should not be at the cost of operators or hauliers and between Police Scotland (who choose to outsource the management of the scheme) and the awarded contractor.

Question 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?

The RHA believe that it is reasonable to assume that this work will require more work to recover vehicles in these conditions and as such it is fair for more to be charged for this type of recovery.

The definitions of each term is what has received the greatest amount of controversy from our members. One person’s interpretation of what is “substantially damaged” is different to another’s as is what is deemed to be “off-road”. These differences have led to discrepancies in charges for recovery operations in England & Wales and must be avoided in Scotland.

In our opinion the definition in the consultation is a fair representation of what would be substantially damaged. However, we believe terms such as off-road should also be included. This would avoid vehicles been deemed as off-road and a higher charge being issued. For example, our members have reported a vehicle having one set of wheels touching the edge of the hard shoulder being deemed “off-road”. Under the proposed pricing this would result in an additional £1,890 despite the recovery process being identical for both examples.

We also believe that it would be fair to introduce a dispute resolution or arbitration process. Any such process would allow hauliers whose vehicle is being recovered the opportunity to raise a dispute against any invoice for these services. This would represent a fair system

which applies formal procedure for the haulier to follow should they feel the invoice is incorrect in contrast to how the system operates in England & Wales.

Question 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?

We believe these rates should be fairly set based on the evidential operating costs of recovery. This would be fair for ALL road users and would mean everyone is aware of what will be charged.

Question 7. If you do not think it practical to identify satisfactory 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?

We do not believe that a “for all other cases” category is appropriate. It leaves even more open for interpretation than is currently and, the way the question is worded would suggest that this would be set at a higher rate which is very dangerous for hauliers. It will be rare that any incident will not fit in to the proposed categories.

Question 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 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?

It is not reasonable to expect the haulier or road user to pay a proportion of the cost for a recovery operator to belong to a management scheme. If Police Scotland so decide to outsource the management of the scheme, the cost of this should not be met by road users or business.

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

It is our experience that when the management of schemes are outsourced they often become less effective. Customer service consistency is almost always higher when functions are retained in house. We therefore believe that hauliers would receive a better service and that recovery operations would run smoother if the management of the scheme was retained in house.

Question 10. Should any prescribed charges be increased annually based on inflation (bearing in mind that this will required 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?

Rates should be reviewed, as they are in all aspects of business, but no guarantee should be made that they will be increased, whether that is annually or every 3 or 5 years. Hauliers do not automatically have their rates increased year on year, why should recovery operators have the guarantee of an increase?

Question 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?

There is some dubiety over how the scheme is being operated in England. Our members are reporting that due to an issue of misinterpretation, some authorities are operating in breach of the existing legislation.

Right across the UK there has been issues with management companies restricting operations to just a few operators. As a result, operators are often many miles from any incident and can take a long time to arrive at incidents. This is a particular problem in Scotland. We believe that the scheme should be designed in such a way that allows hauliers to recover their own vehicles, where the Police deem it is safe & reasonable for them to do so. A timescale of say 60 or 90 minutes could be introduced and if they cannot guarantee recovery within this time the recovery is then arranged through the scheme.

While operators may have the required kit to gain access to the Scottish Recovery Scheme, in some cases they are not experienced or trained to operate the kit correctly. This has led to roads being closed for longer periods of time and roads / HGVs being damaged when recovery is attempted. One potential solution to this would be to introduce recovery training modules whereby recovery operators need to prove competence through the completion of training before being granted access on to the Scottish Recovery Scheme. This could be done through the existing Driver CPC requirement, which many recovery operators already need to comply with, and would help ensure competence within the industry. This would also address concerns of recovery operators who have to complete DCPC training but there are no modules relevant to their day to day jobs.



The Road Haulage Association

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Chris Little

Regional Policy Adviser – Scotland & Northern Ireland

Road Haulage Association

c.little@rha.uk.net