

STATES OF JERSEY



DRAFT MOTOR VEHICLES (REMOVAL FROM PRIVATE LAND) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 10th April 2019
by the Minister for Home Affairs**

STATES GREFFE



Jersey

DRAFT MOTOR VEHICLES (REMOVAL FROM PRIVATE LAND) (JERSEY) REGULATIONS 201-

REPORT

Introduction

On 20th November 2018, the States Assembly adopted the [Motor Vehicles \(Removal from Private Land\) \(Jersey\) Law 2019](#). The Law provides for the introduction, by Regulations, of measures to enable private landowners to deal with motor vehicles that have been parked or abandoned on their land without permission to be there. The Law was approved by the Privy Council on 13th February 2019 and registered in the Royal Court on 22nd February, so these Regulations are being brought forward in order to give effect to these measures.

The Draft Motor Vehicles (Removal from Private Land) (Jersey) Regulations 201- (the “draft Regulations”), if adopted by the Assembly, will enable private landowners to do the following –

- remove from private land, or move to a different position on private land, vehicles that are parked without permission to be there;
- deal with vehicles that are causing a nuisance, security risk, danger or obstruction to other persons using private land;
- dispose of abandoned vehicles;
- deal with recurrent instances where a vehicle is parked on private land without permission to be there, for short but frequent periods of time.

Private landowners will be able to make use of these measures provided they follow the processes set out in the draft Regulations and satisfy the conditions for doing so.

Moreover, the draft Regulations will make vehicle immobilisation and interference unlawful. This includes practices such as the attachment to a vehicle of an immobilisation device such as a wheel clamp. The decision to include this provision in the draft Regulations is consistent with the States Assembly’s decision in October 2009 ([P.119/2009](#)) to make the practice illegal.

The draft Regulations will apply to all private land in Jersey, including any road, driveway, parking space or other area of land that is privately owned. The draft Regulations will not extend to land that is in public ownership, which is already covered by the [Road Traffic \(Jersey\) Law 1956](#).

The draft Regulations

The measures set out in the draft Regulations are as follows.

Motor vehicle immobilisation and interference

The draft Regulations make it unlawful for a private landowner to prevent or obstruct (unless with lawful authority) a person from removing their vehicle from private land. This includes where the private landowner –

- immobilises a vehicle by attaching to it, or to part of it, an immobilising device, or placing an immobilisation near a vehicle (this includes a wheel clamp);
- moves or restricts the movement of a vehicle unless permitted by the Regulations.

There will be circumstances where it will not be deemed an offence to prevent or inhibit a vehicle from being removed by the person entitled to remove it – for example, where the movement of a vehicle is restricted by the presence of a fixed barrier, provided that the barrier was present when the vehicle was initially parked there.

Removal of motor vehicles from private land

The draft Regulations establish measures by which motor vehicles may be moved or removed from private land when they do not have permission from a private landowner to be parked there. There are different processes depending on whether signage is displayed on the land or not. The different processes that will apply are:

Where signage is displayed: a private landowner will be able to move or remove a motor vehicle that is not authorised to be on that land immediately. There is an implied understanding that the vehicle owner has read the signage and is aware that they are not authorised to park on the land.

A private landowner will also be permitted to move or remove a motor vehicle immediately from private land if that land does not include a solid foundation (e.g. a field in the countryside). This provision is intended to prevent the excessive display of signage in the countryside.

A motor vehicle may be moved by a private landowner to another part of the land for safekeeping or removed to a secure storage facility.

Where signage is not displayed: a private landowner will be able to remove a motor vehicle that is not authorised to be on their land (and dispose of it) after they have taken the required steps to inform the vehicle owner. There are 2 proposed exceptions –

- Where the vehicle owner is present and only with the assistance of a police officer.
- Where a private landowner requires an immediate solution to the problem (such as where a vehicle is causing a security risk or obstruction to the emergency services), and only with authorisation from a police officer or parochial authority.

The removal of a motor vehicle from private land would not by itself provide a private landowner with immediate authority to dispose of the vehicle. It may be, for example, that a motor vehicle is claimed by its owner once it is removed. Only after a private landowner has taken steps to notify the owner, and 3 weeks from that notice have passed, will they be able to dispose of a vehicle that has been verified as abandoned.

In both circumstances (irrespective of whether signage is displayed or not), a private landowner may seek to dispose of a motor vehicle immediately if they believe that it has been permanently abandoned, for example, by virtue of its condition or a lack of number plates. This would need to be authorised by the relevant parochial authority.

Signage requirements

If a private landowner wishes to use the process to move or remove a motor vehicle from their land immediately, they will need to display signage (except where there is no solid foundation). There are different signage requirements for land designated specifically as a car park or any area of land.

Where the land is designated as a car park, there must be parking spaces clearly marked as spaces for use by a particular person or class of person (e.g. the tenants of an estate). There must also be a notice displayed that is visible from each of the parking spaces that warn that any motor vehicle that is not authorised to be parked in the parking space is liable to be removed.

When a vehicle is parked in a car park that has defined entrance and exit points, the requirement to display signage will have been satisfied if a notice containing the above information is displayed at each entrance and exit point.

For other areas of private land that are not ordinarily used as car parks, or do not have designated car parking spaces, such as a yard or petrol station forecourt, a notice must be visible from each vehicular access point onto the private land.

Under Regulation 10, if a private landowner intends to display signage on their land, the signage must comply with any relevant legislation in force regarding the display of signage. The [Planning and Building \(Display of Advertisements\) \(Jersey\) Order 2006](#) currently permits non-illuminated signage of up to 5 m.² to be displayed without a requirement for planning permission.

Notice requirements

If a private landowner wishes to sell or dispose of a motor vehicle that has been parked on their land without permission to be there, they must firstly attempt to contact the owner of the vehicle in order to determine whether the vehicle has been permanently abandoned.

In order to find out this information, a private landowner (or an agent acting on their behalf) must request the Parish in which the motor vehicle is located to release the details of the vehicle owner. The Parish may serve the notice itself on the person who is believed to be the vehicle's owner.

A notice sent to a vehicle owner must include the following information –

- (a) a sufficient description of the vehicle for it to be identified;
- (b) the location of the vehicle and, in the case where it has been removed, the location from which it was removed;
- (c) that is the intention of the custodian to sell or otherwise dispose of the vehicle on or after a date specified in the notice: that date can be no less than 3 weeks from the date of the notice;
- (d) that the custodian may recover from the vehicle's owner the costs incurred in the removal and storage of the vehicle;
- (e) the telephone number of the person who the vehicle owner should contact in order to recover the vehicle.

If a person to whom a notice is sent informs the Parish that they no longer own the motor vehicle, but provide the name and address of another person who they believe is the vehicle owner, then another notice with the above information may be sent to any further person who it is thought to be the vehicle owner. However, it would be for the Parish to determine the reasonableness of any further enquiries.

If a Parish is unable to determine the owner of a motor vehicle (it may not, for example, display a Jersey licence plate), or has otherwise been unsuccessful in serving a notice, a notice must be placed in the Jersey Gazette.

Only after all reasonable attempts have been made to contact the owner of a motor vehicle, and no less than 3 weeks after a notice has been served, or appeared in the Gazette, as the case may be, may the vehicle be disposed of in accordance with the process set out below.

The Inspector of Motor Traffic will also be permitted under the Regulations to provide information to certain private landowners if those persons have permission from the Minister for Home Affairs to request the information instead of requesting it from a parochial authority.

Disposal of motor vehicles

The draft Regulations permit a private landowner, or a person acting on their behalf, to dispose of a motor vehicle that has been permanently abandoned. A private landowner will be able to take this action only if –

- (a) the relevant Parish authority determines that a vehicle has been permanently abandoned in accordance with Regulation 5(3); or
- (b) a vehicle owner has failed to claim it before the end of the 3 week period beginning on the date on which a notice is served on the vehicle owner; or
- (c) a vehicle owner has failed to claim it before the end of the 3 week period beginning on the date when the notice is placed in the Gazette (if a notice cannot be served on the owner).

Once one of these conditions has been satisfied, a vehicle is deemed to be permanently abandoned, and may be sold or disposed of. The relevant Parish or the Police must be informed of a vehicle's disposal.

When the vehicle is sold or disposed of, the proceeds of its disposal may be used towards meeting any reasonable costs that were incurred as a result of its removal, storage and disposal. After that amount is deducted, the balance, if any, must be paid to the person who the vehicle belonged to (if known). Where the balance is not claimed within one year, it must be credited to the Government of Jersey.

Motor vehicle removal operators

The draft Regulations require private landowners to use a motor vehicle removal operator if they want to remove from, or move on, their land a vehicle that has been parked without permission to be there. A person would commit an offence if they decided to remove a vehicle from private land without using a vehicle removal operator. Any person who wishes to carry out this activity must register as a vehicle removal operator.

Regulation 7 includes provision for the Minister for Home Affairs to make available a register of vehicle removal operators. This includes persons who are responsible for the removal, custody and storage of vehicles. Regulation 8 sets out the process for applications for registration as a vehicle removal operator, and the process for reviewing and appealing a decision to refuse an application for registration, impose conditions, or cancel a registration.

Any person who wishes to register as a vehicle removal operator will need to demonstrate to the Minister that they have suitable vehicles and equipment to remove vehicles from private land; adequate insurance arrangements to protect vehicles against damage; and storage facilities to which vehicles can be removed.

Nuisance motor vehicles

The draft Regulations include provision to deal with circumstances where a vehicle may be parked frequently on private land in a way that is considered by the landowner to constitute a persistent nuisance. This may occur, for example, when a person leaves their car for a few minutes each day on a privately-owned estate in someone's designated parking space in order to drop off and pick up their children from a nearby school. In this situation, a vehicle may only be left on private land for a short period of time, so removing it is not a practical solution.

In order for private landowners to manage vehicles that cause them a recurrent nuisance, the draft Regulations enable the Magistrate's Court, upon the application of a private landowner, to impose a charge on the vehicle's owner (not exceeding £500), and to require the owner to desist from parking their vehicle on the private land.

Powers of other authorities

A number of other Laws already give authorities powers to move motor vehicles – for example, if a vehicle is dangerously parked and may cause a hindrance to the emergency services. Therefore, the draft Regulations do not prevent –

- a police officer from moving or removing a vehicle on private land, or causing it to be moved or removed, under any other power vested in them;
- the Airport Director from removing a vehicle considered to be interfering with the working of the airport under the [Aerodromes \(Jersey\) Regulations 1965](#);
- the Harbour Master from removing vehicles from the harbour under the [Harbours \(Jersey\) Regulations 1962](#);
- a firefighter, a member of the Airport Rescue and Firefighting Service, or a police officer, from moving or breaking into a vehicle without the owner's consent if the action is required in an emergency situation, in accordance with the [Fire and Rescue Service \(Jersey\) Law 2011](#).

Conclusion

Motor vehicles that have been parked or abandoned on private land without permission to be there can be a source of great frustration and cost to private landowners. The draft Regulations are intended to provide a solution to this problem. They will provide private landowners with a series of measures to manage vehicles that have been parked or abandoned on their land without authorisation.

At the same time, the draft Regulations will prevent private landowners from taking disproportionate action such as wheel clamping, the legality of which is uncertain, and there are concerns about how it is enforced.

The draft Regulations have been developed in consultation with the Department for Growth, Housing and Environment, the Comité des Connétables, and the Comité des Chefs de Police. This consultation has highlighted the difficulties that many private landowners experience in dealing with motor vehicles that have been parked or abandoned on private land without permission. We are grateful for their input in the draft Regulations, and pleased to recommend their adoption by the States Assembly.

Financial and manpower implications

There are no additional resource implications for the States arising from the adoption of the draft Regulations.

The processes for the removal of motor vehicles from private land will rely on private landowners using commercial removal operators in order to remove parked or abandoned vehicles from their land. As such, there will be costs for landowners

involved with this process. The costs connected with the removal, storage and disposal of vehicles are considered reasonable in order for private landowners to seek relief from vehicles that are parked on their land without permission.

Where the draft Regulations establish a requirement to provide registered keeper information or undertake a registration activity, the Inspector of Motor Traffic and the Parishes are permitted to charge for this activity in order to meet their costs.

In some cases, a private landowner may require the assistance of the Police or Parish authority in order to help with the removal of a vehicle. There will be costs for the authorities involved in such cases, but it is thought that they can be covered in the costs of normal service provision, given the anticipated small number of cases where it will be necessary for authorities to be present.

Explanatory Note

These Regulations make provision for the removal and disposal of motor vehicles from private land in the circumstances and in the manner described in the Regulations.

Regulation 1 defines expressions used in these Regulations.

Regulation 2 prohibits the immobilization of a motor vehicle by the attachment to the motor vehicle, or a part of it, of an immobilization device or the placing of such a device near the motor vehicle, or immobilizing it by any other means and provides that a person who does so is liable on conviction to a fine not exceeding level 3 on the standard scale.

Regulation 3 provides for the removal of a motor vehicle from private land when the land has signage displayed that complies with the requirements set out in *Regulation 3*. It also permits the removal of a motor vehicle where the land is not laid with a solid foundation (whether or not there is signage displayed). *Regulation 3* provides for the removal of such a motor vehicle if it has been permitted to remain at rest on, or appears to have been abandoned on, such land and is not authorised to be there; or where the authorised person is of the opinion that the position or condition of the motor vehicle or the circumstances in which the motor vehicle has been left are such that it is causing or is likely to cause a nuisance, security risk, danger or obstruction to another person using that land. A motor vehicle must not be moved or removed from the private land under this Regulation other than by a designated motor vehicle removal operator. A person who moves or removes a motor vehicle contrary to this Regulation commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.

Regulation 4 provides for the removal of a motor vehicle from private land in circumstances other than those described in *Regulation 3* and where a motor vehicle has been permitted to remain at rest on the land, or appears to have been abandoned on that land, and is not authorised to be there, or where the authorised person is of the opinion that the position or condition of the motor vehicle or the circumstances in which the motor vehicle has been left are such that it is causing or is likely to cause a nuisance, security risk, danger or obstruction to another person using that land. A motor vehicle must not be moved or removed from the private land except in accordance with this Regulation. A person who moves or removes a motor vehicle contrary to this Regulation commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.

Regulation 5 provides for the disposal of motor vehicles removed from private land under these Regulations, sets out the requirements to be satisfied for such a disposal and provides that a person who disposes of a motor vehicle in contravention of the requirements commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale. Under this Regulation the landowner is required to keep for not less than one year the original or copy of all records in connection with actions taken by the authorised person or custodian in respect of a motor vehicle under these Regulations and commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale for failing to do so.

Regulation 6 enables the Magistrate's Court, on the application of an authorised person, to make an order permitting an authorised person to impose such charge upon a motor vehicle owner that the Magistrate may specify (not exceeding £500) and/or an order that the motor vehicle owner desist from parking or leaving the motor vehicle on

the authorised person's land or permit the motor vehicle to be parked or left on the land. Where an authorised person imposes a charge under this Regulation, the charge and any expenses reasonably incurred by the authorised person are recoverable as a civil debt from the motor vehicle owner.

Regulation 7 requires the Minister to maintain and publish a register of registered motor vehicle removal operators and a register of motor vehicle removal operators who are exempt from being registered. A person commits an offence if the person, purportedly acting as a motor vehicle removal operator, removes a motor vehicle from private land when the person is not registered or on the register of exempt motor vehicle operators and is liable on conviction to a fine not exceeding level 3 on the standard scale.

Regulation 8 sets out the process for applications for registration and the process for reviewing and appealing a decision to refuse an application for registration, impose conditions or cancel a registration.

Regulation 9 provides that nothing in these Regulations prevents a police officer, the Airport Director, the Harbour Master, a firefighter or any member of the Airport Rescue and Firefighting Service from exercising their powers under other laws to deal with the removal of motor vehicles.

Regulation 10 clarifies that a notice displayed on land must be in conformity with the Planning and Building (Jersey) Law 2002 or any Order made under that Law. *Regulation 10* also describes the methods by which a notice or other document required or authorised by these Regulations to be given to or served on a person may be given or served on the person in question.

Regulation 11 enables the Inspector of Motor Traffic to provide information to certain custodians and authorised persons if those persons have permission from the Minister to request the information from him or her, instead of requesting it from a parochial authority in compliance with Regulation 5(3) or 6(2). If the Inspector of Motor Traffic receives a request from a person who the Inspector is satisfied has the permission of the Minister to make a request for that information, the Inspector must provide such information as may be recorded in the register and may charge the custodian or authorised person, as the case may be, for giving any such information.

Regulation 12 states that these Regulations may be cited as the Motor Vehicles (Removal from Private Land) (Jersey) Regulations 201- and provides for them to come into force immediately upon the expiry of the Removal of Vehicles (Private Land) (Jersey) Regulations 2016.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, a fine of level 1 is £200, a fine of level 2 is £1,000 and a fine of level 3 is £10,000.



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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 2, 3, 5 and 7 of the Motor Vehicles (Removal from Private Land) (Jersey) Law 2019¹, have made the following Regulations –

1 Interpretation

(1) In these Regulations –

“authorised person” means –

- (a) the owner of private land (“landowner”) or a person authorised in writing by the owner of that private land to restrict the use or otherwise control the presence of motor vehicles on that land; and
- (b) in relation to a motor vehicle which is on any Ports of Jersey land, also means –
 - (i) the Harbour Master, or
 - (ii) the Airport Director;

“custodian” in relation to a motor vehicle means –

- (a) the designated motor vehicle removal operator responsible for the removal of a motor vehicle from private land and any person acting in the capacity of the motor vehicle removal operator’s agent; and
- (b) in the case of a motor vehicle that remains on private land, the authorised person in relation to that land and any person acting in the capacity of the authorised person’s agent;

“designated motor vehicle removal operator” means a person, registered under Regulation 7 (or exempt from registration), who the landowner designates as the person responsible for the removal, safe custody or storage of a motor vehicle removed from that landowner’s private land under these Regulations (and, for the avoidance of doubt the landowner may be the designated motor vehicle removal operator in relation to the landowner’s land);

“parking place” means a place allocated for the parking of a motor vehicle or a motor vehicle of any class or description;

“Ports of Jersey land” means –

- (a) land owned by Ports of Jersey Ltd (being the company established under Article 3 of the Air and Sea Ports (Incorporation) Jersey Law 2015²); and
- (b) any other land that is leased to or otherwise managed by Ports of Jersey Ltd;

“public land” has the same meaning as in the Road Traffic (Jersey) Law 1956³;

- (2) For the purpose of these Regulations, a motor vehicle that has broken down and has remained at rest for any period in any position on private land is to be treated as if it had been permitted to remain at rest in that position throughout that period.

2 Immobilization, interference etc. of motor vehicles prohibited

- (1) A person commits an offence if the person, without lawful authority and with the intention of preventing or inhibiting the removal of a motor vehicle by a person otherwise entitled to remove it –
 - (a) immobilizes the motor vehicle by the attachment to the motor vehicle, or a part of it, of an immobilization device or the placing of such a device near the motor vehicle; or
 - (b) moves, or restricts the movement of, the motor vehicle by any means.
- (2) A person does not commit an offence under paragraph (1)(b) if –
 - (a) the motor vehicle is moved or removed in circumstances permitted under Regulations 3, 4, 5 or 6; or
 - (b) in all the circumstances it was reasonable for the person to move or restrict the movement of the motor vehicle.
- (3) The express or implied consent (whether or not legally binding) of a person otherwise entitled to remove the motor vehicle to the immobilisation, movement or restriction concerned is not lawful authority for the purposes of paragraph (1).
- (4) For the purposes of paragraph (1), where the restriction of the movement of the motor vehicle is by means of a fixed barrier which was present (whether or not lowered into place or otherwise restricting movement) when the motor vehicle was placed on the private land, any express or implied consent (whether or not legally binding) of the motor vehicle owner to the restriction is lawful authority for the restriction.
- (5) A motor vehicle owner, or a person who is permitted by the motor vehicle owner to remove a motor vehicle cannot commit an offence under this Regulation in relation to that motor vehicle.
- (6) A person guilty of an offence under paragraph (1) is liable on conviction to a fine not exceeding level 3 on the standard scale.

3 Removal of motor vehicles from private land

- (1) Paragraphs (3) to (12) apply where –
 - (a) a motor vehicle has been permitted to remain at rest on, or appears to have been abandoned on, private land;
 - (b) the motor vehicle is not authorised to be on that private land or the authorised person is of the opinion that the position or condition of the motor vehicle or the circumstances in which the motor vehicle has been left are such that the motor vehicle is causing or is likely to cause a nuisance, security risk, danger or obstruction to another person using the private land; and
 - (c) the requirements of paragraph (2) are satisfied.
- (2) The requirements to be satisfied are –
 - (a) in a case where the motor vehicle is on a part of the private land that the landowner permits to be used as a carpark –
 - (i) the parking place in which the motor vehicle has been left is clearly marked as a parking place that is allocated for use by a particular person or class of person or for the parking of a particular motor vehicle or class of motor vehicle,
 - (ii) the motor vehicle that has been left in the parking place is not authorised to be left there, and
 - (iii) there is a notice that is clearly visible from the parking place that –
 - (A) indicates that the parking place is allocated for use by a particular person or class of person or for the parking of a particular motor vehicle or class of motor vehicle,
 - (B) warns that any motor vehicle that is not authorised to be parked in the parking place is liable to be removed, and
 - (C) gives the telephone number of the custodian of any motor vehicle removed from parking places on that land;
 - (b) in a case where a motor vehicle is on private land in respect of which the requirements in sub-paragraph (a) are not satisfied, there is a notice that is clearly visible from each vehicular access point onto the private land that –
 - (i) indicates that the land is private land,
 - (ii) warns that any motor vehicle that is found on that land is liable to be removed, and
 - (iii) gives the telephone number of the custodian of any motor vehicle removed from that land; or
 - (c) the motor vehicle is on land that is not laid with gravel, tar macadam, wood, concrete or other solid foundation (whether or not there is displayed on or near that land a notice containing the information described in sub-paragraph (a)(iii) or (b).

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- (3) For the purposes of paragraph (2)(a), where a motor vehicle is parked in an area used as a carpark which has a clearly defined entrance and exit for motor vehicles (and whether or not access through that entrance or exit is controlled by a barrier), the requirements described in paragraph (2)(a)(i) and (iii) are satisfied if there is placed at each such entrance and exit a notice with the information described in paragraph (2)(a)(iii).
 - (4) If the motor vehicle owner is present with a motor vehicle in respect of which paragraph (2)(a), (b) or (c) applies, the authorised person may require the motor vehicle owner immediately, or within such period as the authorised person may specify, to –
 - (a) move the motor vehicle, or cause it to be moved to such other part of the private land, as the authorised person may specify; or
 - (b) remove the motor vehicle or cause it to be removed from the private land.
 - (5) The authorised person, when requiring a motor vehicle to be moved or removed under paragraph (4), must, upon request of the motor vehicle owner, show the motor vehicle owner his or her authorization or, in the case of the authorised person being the landowner, must inform the motor vehicle owner of that fact.
 - (6) If –
 - (a) a motor vehicle owner fails to move or remove the motor vehicle or cause it to be moved or removed as reasonably required by an authorised person under paragraph (4);
 - (b) a police officer is present (or, in a case where the motor vehicle is on Ports of Jersey land, a police officer or the Airport Director or Harbour Master is present); and
 - (c) that police officer, Airport Director or Harbour Master, as the case may be, is satisfied that the authorised person has complied with paragraph (5),the police officer, Airport Director or Harbour Master, as the case may be, may permit the authorised person to take such steps as are reasonably required to move the motor vehicle to another part of the private land or remove it from the private land.
 - (7) Where a motor vehicle owner in respect of which paragraph (2)(a), (b) or (c) applies is not present with the motor vehicle, an authorised person may take such steps as are reasonably required to –
 - (a) move the motor vehicle to another part of the private land; or
 - (b) remove the motor vehicle from the private land.
 - (8) A motor vehicle must not be moved or removed from the private land under this Regulation other than by a designated motor vehicle removal operator.
 - (9) Despite paragraphs (6), (7) and (8), a police officer may remove a motor vehicle or cause a motor vehicle to be removed from the private land, (and in the case of a motor vehicle being on Ports of Jersey land, a police officer or the Airport Director or Harbour Master may remove a motor vehicle, or cause a motor vehicle to be removed, from Ports of Jersey

land) that the motor vehicle owner fails to move or remove under paragraph (4) and if the motor vehicle is removed by a police officer he or she must as soon as reasonably practicable, give custody of the motor vehicle to the designated motor vehicle removal operator in relation to the land from which it was removed.

- (10) A person moving or removing a motor vehicle under this Regulation –
- (a) may take such measures in relation to the motor vehicle as he or she thinks reasonably necessary to enable him or her to move or remove it and provide safe custody of it; and
 - (b) must notify as soon as reasonably practicable a police officer (if a police officer is not the person moving or removing it) or the parochial authority in which the motor vehicle has been moved or removed and, in the case where it has been removed from the land, the place to which it has been moved.
- (11) Where a motor vehicle is taken into custody under this Regulation –
- (a) any expenses reasonably incurred by the custodian in connection with his or her removal or custody of the motor vehicle, is recoverable as a civil debt from the motor vehicle owner; and
 - (b) the motor vehicle may be retained by the custodian until the motor vehicle owner has paid any expenses referred to in subparagraph (a).
- (12) A person who moves or removes a motor vehicle in contravention of this Regulation commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.

4 Removal of motor vehicles from private land when Regulation 3(2)(a), (b) or (c) requirements not satisfied

- (1) Paragraphs (2) to (9) apply where –
- (a) a motor vehicle been permitted to remain at rest on, or appears to have been abandoned on, private land;
 - (b) the motor vehicle is not authorised to be on that private land or the authorised person is of the opinion that the position or condition of the motor vehicle or the circumstances in which the motor vehicle has been left are such that the motor vehicle is causing or is likely to cause a nuisance, security risk, danger or obstruction to another person using the private land; and
 - (c) the requirements of Regulation 3(2)(a), (b) or (c) are not satisfied.
- (2) If the motor vehicle owner is present with a motor vehicle in the circumstances described in paragraph (1), the authorised person may require the motor vehicle owner, immediately or within such period as the authorised person specifies, to –
- (a) move the motor vehicle, or cause it to be moved to another part of the private land specified by the authorised person; or
 - (b) remove the motor vehicle or cause it to be removed from the private land.

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- (3) If a motor vehicle owner fails to move or remove the motor vehicle or cause it to be moved or removed as reasonably required by the authorised person under paragraph (2), a police officer may –
- (a) order the motor vehicle owner to remove the motor vehicle immediately or within such period as the authorised person may specify;
 - (b) give custody of the motor vehicle to the custodian; or
 - (c) take custody of the motor vehicle and arrange for its removal and safe custody.
- (4) Subject to paragraph (5), where the motor vehicle owner is not present with the motor vehicle, the authorised person –
- (a) must not move the motor vehicle or remove it from the private land; and
 - (b) must not cause it to be moved, or removed from the private land, except as otherwise permitted by Regulation 5.
- (5) Where an authorised person is of the opinion that the position or condition of the motor vehicle or the circumstances in which the motor vehicle has been left are such that the motor vehicle is causing or is likely to cause a security risk, danger or obstruction to another person using the private land, the authorised person may request a police officer or an officer of the parochial authority in which the private land is situated to –
- (a) immediately move the motor vehicle, or cause it to be moved to another part of the private land where it will not cause a security risk, danger or obstruction to another person using that land; or
 - (b) immediately remove the motor vehicle or cause it to be removed from the private land and take custody of it,
- and if the police officer or officer of the parochial authority agrees that the motor vehicle is causing or is likely to cause a security risk, danger or obstruction to another person using the private land, the police officer or officer of the parochial authority, as the case may be, must take such action as he or she considers necessary to move or remove the motor vehicle so that it no longer causes that security risk, danger or obstruction.
- (6) A person who moves or removes a motor vehicle in contravention of paragraph (4) commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (7) Subject to paragraph (8), where a motor vehicle is moved or removed and taken into custody under this Regulation –
- (a) the custodian may take such measures in relation to the motor vehicle as he or she thinks reasonably necessary to enable him or her to move or remove it and provide safe custody of it;
 - (b) the custodian must notify as soon as reasonably practicable a police officer or the parochial authority in which the motor vehicle has been moved or removed and, in the case where it has been removed from the land, the place to which it has been moved;

- (c) any expenses reasonably incurred by the authorised person or custodian in connection with his or her removal or custody of the motor vehicle, is recoverable as a civil debt from the motor vehicle owner; and
 - (d) the motor vehicle may be retained by the custodian until the motor vehicle owner has paid any expenses referred to in subparagraph (a).
- (8) In a case where the motor vehicle has been taken into the custody of a police officer or an officer of a parochial authority, the Road Traffic (Removal of Vehicles) (Jersey) Order 1963⁴ is to apply as if the motor vehicle had been removed from a road in accordance with that Order.
- (9) A person who fails to comply with paragraph (7)(b) commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

5 Disposal of motor vehicles removed from private land

- (1) A motor vehicle that has been removed from private land must be kept by the custodian and must not be disposed of other than in accordance with this Regulation.
- (2) A motor vehicle that under Regulation 4(4) must not be removed from the private land (subject to Regulation 4(5)) must not be disposed of other than in accordance with this Regulation.
- (3) If, in the opinion of the custodian of a motor vehicle, the motor vehicle appears by virtue of its condition to have been permanently abandoned, the custodian may request permission from the parochial authority in which the motor vehicle has been moved or removed to dispose of the motor vehicle without taking the measures described in paragraphs (5) to (11).
- (4) Where a parochial authority refuses permission under paragraph (3) and where a custodian does not know the name and address of the motor vehicle owner, if the motor vehicle carries a registration mark assigned under the Motor Vehicle Registration (Jersey) Law 1993⁵ the custodian may request a parochial authority to give to the custodian the name and address of the person recorded in the register as the motor vehicle owner.
- (5) Upon request made under paragraph (4), the parochial authority –
- (a) may give to the custodian the information requested and such other particulars recorded in the register as are, in the opinion of the parochial authority, relevant to the circumstances in which the request has been made; or
 - (b) may refuse to give the custodian the information requested.
- (6) If the custodian is provided with or otherwise knows the name and address of the person recorded in the register as the motor vehicle owner, the custodian must serve a notice on the person believed to be the motor vehicle owner, stating the information described in paragraph (8).

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- (7) The parochial authority, if it refuses to give the custodian the information requested under paragraph (3), must serve a notice on the person believed to be the motor vehicle owner, stating the information described in paragraph (8).
 - (8) The information that must be stated in a notice under paragraph (6) or (7) is the following –
 - (a) a sufficient description of the motor vehicle for it to be identified;
 - (b) the location of the motor vehicle and, in the case where it has been removed, the location from which it was removed;
 - (c) that it is the intention of the custodian to sell or otherwise dispose of the motor vehicle on or after a date specified in the notice, being not less than 3 weeks from the date of the notice;
 - (d) that the custodian may recover from the motor vehicle owner the costs incurred in the removal and storage of the motor vehicle;
 - (e) the telephone number of the person who the motor vehicle owner should contact for the purpose of recovering the motor vehicle; and
 - (f) any other information that the custodian may consider to be relevant.
 - (9) If a person to whom a notice is sent under paragraph (6) or (7) informs the custodian or the parochial authority who served the notice of the name and address of some other person who he or she alleges may be the motor vehicle owner, the custodian or parochial authority, as the case may be, may send a notice with the particulars contained in that paragraph to that other person and to any further person who the custodian or parochial authority may, in consequence of the sending of the notice to the said other person, be led to believe may be the motor vehicle owner.
 - (10) If the custodian or parochial authority does not know the name and address of the motor vehicle owner or has otherwise been unsuccessful in serving a notice with the particulars described in paragraph (8)(a) to (f) on the motor vehicle owner, the custodian must insert a notice in the Jersey Gazette stating that it is the intention of the custodian to sell or otherwise dispose of the motor vehicle (which must be sufficiently described in the notice) on or after a specified date, being not less than 3 weeks from the date of the notice.
 - (11) The motor vehicle may not be disposed of except where it appears that it has been permanently abandoned, and it is deemed to have been permanently abandoned –
 - (a) if the parochial authority permits the custodian to dispose of the motor vehicle without taking the measures described in paragraphs (5) to (11);
 - (b) if the motor vehicle owner has failed to claim it before the end of the period of 3 weeks beginning with the date of service of the notice on the motor vehicle owner; or
 - (c) if a notice has not been served on the motor vehicle owner, if the motor vehicle owner has failed to claim it before the end of the

period of 3 weeks beginning with the date the notice is placed in the Jersey Gazette under paragraph (10).

- (12) A custodian may dispose of a motor vehicle that has been permanently abandoned.
- (13) A custodian who disposes of a motor vehicle under this Regulation must –
 - (a) notify a police officer or a parochial authority of its disposal; and
 - (b) notify the Inspector of Motor Traffic of its disposal.
- (14) On the disposal of a motor vehicle by a custodian, the custodian may apply the proceeds of its disposal in or towards the satisfaction of any reasonable costs incurred by it in connection with the removal, storage and disposal of the motor vehicle.
- (15) In the event of any costs incurred by the custodian in connection with the disposal of a motor vehicle not being satisfied under paragraph (11), the custodian may recover the costs so far as not satisfied as a civil debt from the person who was the last owner of the motor vehicle on or before the date it was removed from the private land, or, in a case where it was not removed, on the date on which it is disposed of under this Regulation.
- (16) After deducting the sum recoverable under paragraph (15), the balance (if any) of the proceeds of sale are payable within a period of one year from the date of the sale to any person to whom, but for such sale, the motor vehicle would have belonged and, in so far as any such balance is not claimed within the said period, it must be credited to the States.
- (17) The landowner must keep for not less than one year the original or copy of all records in connection with actions taken by the authorised person or custodian in respect of a motor vehicle under these Regulations.
- (18) A person who disposes of a motor vehicle in contravention of paragraph (1) or (2) commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (19) A person who fails to comply with paragraph (13) or (17) commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

6 Nuisance motor vehicles

- (1) This Regulation applies where a motor vehicle is permitted to remain on private land in a manner which the authorised person considers constitutes a nuisance.
- (2) Where the authorised person of the private land does not know the name and address of the motor vehicle owner, if the motor vehicle carries a registration mark assigned under the Motor Vehicle Registration (Jersey) Law 1993⁶ the authorised person may request a parochial authority to give to the authorised person the name and address of the person recorded in the register as the motor vehicle owner.
- (3) Upon request made under paragraph (2), the parochial authority –

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- (a) may give to the authorised person the information requested and such other particulars recorded in the register as are, in the opinion of the parochial authority, relevant to the circumstances in which the request has been made; or
 - (b) may refuse to give the authorised person the information requested.
 - (4) If the authorised person is provided with or otherwise knows the name and address of the person recorded in the register as the motor vehicle owner, the authorised person must serve a notice on the person believed to be the motor vehicle owner, stating the information described in paragraph (6).
 - (5) The parochial authority, if it refuses to give the authorised person the information requested, must serve a notice on the person believed to be the motor vehicle owner, stating the information described in paragraph (6).
 - (6) The authorised person must send a notice to the person believed to be the motor vehicle owner which contains –
 - (a) a sufficient description of the motor vehicle for it to be identified;
 - (b) the name and means of contact of the authorised person;
 - (c) the location at which the authorised person alleges the motor vehicle has been permitted to remain and the reason for the authorised person considering that the manner in which the motor vehicle is left or parked constitutes a nuisance;
 - (d) a warning that if the motor vehicle is found to be parked or left on the private land in future that an application may be made to the Magistrate’s Court for an order –
 - (i) consenting to a charge not exceeding £500 being imposed by the landowner upon the motor vehicle owner, or
 - (ii) for the motor vehicle owner to desist parking or leaving the motor vehicle on the land or permitting the motor vehicle to be parked or left on that land;
 - (e) a statement to the effect that the motor vehicle owner may be heard and provide evidence to the Magistrate’s Court not later than 21 days after the date of notice before an order is made by the Magistrate’s Court; and
 - (f) any other information that the authorised person considers to be relevant.
 - (7) If a person to whom a notice is sent under paragraph (6) informs the authorised person of the name and address of some other person who he or she alleges may be the motor vehicle owner, the authorised person may send a notice with the particulars contained in that paragraph to that other person and to any further person who the authorised person may, in consequence of the sending of the notice to the said other person, be led to believe may be the motor vehicle owner.
 - (8) The Magistrate, upon application of the authorised person, must make no order unless he or she is satisfied that –
 - (a) the authorised person has served a notice on the motor vehicle owner containing the matters described in paragraph (6)(a) to (f);

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- (b) the position of the car constitutes a nuisance; and
 - (c) at least 21 days from the giving of the notice has passed.
- (9) Subject to paragraph (10), the Magistrate may make an order –
- (a) consenting to the authorised person imposing such charge upon the motor vehicle owner that the Magistrate may specify (not exceeding £500); or
 - (b) that the motor vehicle owner desist from parking or leaving the motor vehicle on the land or permitting the motor vehicle to be parked or left on the land.
- (10) Where the Magistrate makes an order under paragraph (9), the motor vehicle owner may, within the period of 7 days from the date of the order, appeal against the order to the Royal Court, and, until the expiration of that period, or until the determination of the appeal, as the case may require, an order under paragraph (9)(b) has effect.
- (11) On any appeal under paragraph (10) the Royal Court may –
- (a) confirm, reverse or vary the decision of the Magistrate’s Court;
 - (b) remit the matter with its opinion on the matter to the Magistrate’s Court; or
 - (c) make such other order in the matter as it thinks just, and may by such order exercise any power which the Magistrate’s Court might have exercised, and any order so made has the like effect and may be enforced in like manner as if it had been made by the Magistrate’s Court.
- (12) Where an authorised person imposes a charge under this Regulation, the charge and any expenses reasonably incurred by the authorised person is recoverable as a civil debt from the motor vehicle owner.

7 Register of motor vehicle removal operators

- (1) The Minister must maintain and publish a register of registered motor vehicle removal operators.
- (2) The Minister –
 - (a) may exempt a person or class of persons operating as motor vehicle removal operators from the requirement to be registered under paragraph (1); and
 - (b) must publish a list of any person or classes of persons operating as motor vehicle removal operators who are exempt from the requirement to register under paragraph (1).
- (3) The information to be entered in the register in respect of a motor vehicle removal operator is –
 - (a) the full name, address and telephone number of the motor vehicle removal operator;
 - (b) the nature of the work for which the motor vehicle removal operator is registered;

- (c) each premises under the responsibility of that motor vehicle removal operator at which any motor vehicle removed by that motor vehicle removal operator is to be kept; and
 - (d) the methods by which any person seeking the release of a motor vehicle from those premises may contact the person able to authorise that release.
- (4) A person commits an offence if the person removes a motor vehicle from private land pursuant to these Regulations when the person –
- (a) is not registered under paragraph (1); and
 - (b) is not exempt from registration under paragraph (2)(a).
- (5) A person guilty of an offence under paragraph (4) is liable on conviction to a fine not exceeding level 3 on the standard scale.

8 Application for registration as a motor vehicle removal operator

- (1) An application for registration as a motor vehicle removal operator must –
- (a) be in the form published by the Minister for that purpose;
 - (b) be accompanied by such information as the Minister may require;
 - (c) be accompanied by such documentary evidence as may be specified by the Minister as being necessary to substantiate the information;
 - (d) be accompanied by such fee as may be prescribed.
- (2) Subject to paragraph (5), if upon receipt of an application under paragraph (1), the Minister is satisfied that –
- (a) the applicant has sufficiently secure premises to store any motor vehicle removed from private land;
 - (b) the applicant has a vehicle that is suitable for the safe removal of a vehicle from private land; and
 - (c) the applicant, if registered will have adequate insurance against any loss or damage to a motor vehicle removed by the applicant,
- the Minister must register the applicant and provide him or her with a certificate of registration.
- (3) The Minister may –
- (a) publish guidance or standard conditions that apply to any person registered under this Regulation;
 - (b) attach such conditions as he or she thinks fit to the registration of any person; and
 - (c) may at any time vary such conditions.
- (4) The Minister may refuse to grant an application for registration or, where registration has been granted, may cancel the registration, if –
- (a) on the occasion of the application or, as the case may be at any time when requested to do so by the Minister during the currency of the registration, the applicant or the registered person –

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- (i) has not furnished to the Minister such information relating to himself or herself and to any circumstances likely to affect his or her method of operating as a motor vehicle removal operator as may be required, or
 - (ii) has provided information that is false or misleading in that regard;
 - (b) the applicant or the registered person or any person employed by, or associated with, the applicant or that person for the purposes of operating as a motor vehicle removal operator is no longer able to satisfy the Minister of the matters described in paragraph (2)(a), (b) or (c);
 - (c) it appears to the Minister that, by reason of the applicant or the registered person, or any person employed by, or associated with, the applicant or the registered person for the purposes of his or her operating as a motor vehicle removal operator, having been convicted of an offence is no longer a fit and proper person to be registered; or
 - (d) the registered person requests the cancellation of his or her registration, provided that the registration must not be cancelled until 7 days have passed following such a request.
- (5) Where the Minister intends to refuse an application for registration, grant such registration subject to conditions under paragraph (3) or cancel such registration under paragraph (4), he or she must give the person concerned written notice of –
- (a) the Minister's intention to do so and the reasons for so doing; and
 - (b) the person's right to be heard in person or by a representative if he or she informs the Minister in writing of his or her desire to do so within 14 days of the notice.
- (6) If the Minister, after having given the person concerned an opportunity to be heard, decides to refuse the application, imposes conditions or cancels the registration, the Minister must deliver to the person written particulars of the reasons for his or her decision and the person's right of appeal.
- (7) A person aggrieved by such decision of the Minister may, within 14 days from the date on which the person is notified of it under paragraph (8) appeal to the Inferior Number of the Royal Court and, on an appeal under this paragraph, the court may confirm, reverse or vary the Minister's decision.
- (8) Subject to paragraph (11), where the Minister has cancelled the registration of any person such cancellation is not to take effect –
- (a) until 14 days after the person concerned receives notification of the cancellation; or
 - (b) in the case where the person has appealed under paragraph (7), until the date on which his or her appeal has been dismissed.
- (9) Where the Minister considers that it is necessary in the public interest for the cancellation of a registration under this Regulation to have immediate effect, the Minister may apply to the Bailiff, a Jurat or the Magistrate, who may make such order.

9 Other powers of police officers etc.

- (1) Nothing in these Regulations prevents –
 - (a) a police officer from moving a motor vehicle on private land, or causing it to be moved, or removing or causing it to be removed, under any other power vested in him or her; or
 - (b) the Airport Director or Harbour Master from moving or removing a motor vehicle on Ports of Jersey land under any other power vested in him or her; or
 - (c) a firefighter or any member of the Airport Rescue and Firefighting Service from moving or breaking into a motor vehicle under the powers vested in him or her by Article 17 of the Fire and Rescue Service (Jersey) Law 2011⁷.
- (2) A parochial authority or the States of Jersey Police Force may recover any reasonable costs incurred as a result of taking action under these Regulations for the purpose of assisting any authorised person or custodian in the moving or removal of a motor vehicle under these Regulations.
- (3) The costs referred to in paragraph (2) may be recovered from the motor vehicle owner, or, where any proceeds of the sale of a motor vehicle are sufficient, from the authorised person or custodian disposing of motor the vehicle.

10 Displaying or serving of notices

- (1) For the avoidance of doubt, a notice displayed on land that meets the requirements in Regulation 3(2)(a)(iii), (2)(b) or 3(3) must conform with the requirements of the Planning and Building (Jersey) Law 2002⁸ or any Order made under Article 76 or 77 of that Law.
- (2) A notice or other document required or authorised by these Regulations to be given to or served on a person must be given to the person in question or served on the person in question by sending it by registered post or by recorded delivery to the person at the person's proper address.

11 Inspector of Motor Traffic: provision of information to certain custodians and authorised persons

- (1) Despite anything to the contrary in Regulation 5(3) and 6(2), the Minister may permit a person to request the Inspector of Motor Traffic to provide, in relation to any motor vehicle in respect of which the person is a custodian or authorised person, as the case may be, the name and address of the person recorded in the register as the motor vehicle owner.
- (2) A person who has permission under paragraph (1) to request the information contained in the register from the Inspector is not required to comply with Regulation 5(3) or 6(2).
- (3) If the Inspector of Motor Traffic receives a request from a person who the Inspector is satisfied has the permission of the Minister to make a request for that information, the Inspector –

- (a) must provide such information as may be recorded in the register;
and
- (b) may charge the custodian or authorised person, as the case may be, for giving any such information but any charge must not exceed the amount payable by a person under Article 19 of the Motor Vehicle Registration (General Provisions) (Jersey) Order 1993⁹.

12 Citation and commencement

These Regulations may be cited as the Motor Vehicles (Removal from Private Land) (Jersey) Regulations 201- and come into force immediately upon the expiry of the Removal of Vehicles (Private Land) (Jersey) Regulations 2016¹⁰.

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- 1 *L.1/2019*
 - 2 *chapter 03.050*
 - 3 *chapter 25.550*
 - 4 *chapter 25.550.40*
 - 5 *chapter 25.350*
 - 6 *chapter 25.350*
 - 7 *chapter 23.175*
 - 8 *chapter 22.550*
 - 9 *chapter 25.350.50*
 - 10 *R&O.62/2016*