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**POLICE
SCOTLAND**

Keeping people safe

POILEAS ALBA

Seizure of Vehicles

Standard Operating Procedure

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1. Purpose

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland (hereafter referred to as Police Scotland) Policy for Road Policing.
- 1.2 This SOP aims to provide police officers and relevant staff within Police Scotland with the procedures to be adopted for the removal of motor vehicles from a road or other place in the open air, excluding vehicles driven in contravention of Antisocial Behaviour legislation. For information in relation to vehicles being seized under the Antisocial Behaviour Legislation refer to the Antisocial Behaviour SOP.
- 1.3 With the exception of 'End of Life' (scrap) vehicles, those found untaxed on a public road, and in certain circumstances broken down police vehicles, all vehicle removals arranged on behalf of the Police Scotland will utilise contracted Vehicle Recovery Operators (VROs) operating within the Vehicle Recovery Scheme (VRS).
- 1.4 In circumstances where officers attend a vehicle and do not immediately deem it necessary to have the vehicle removed then it should be marked in such a way, that members of the passing public know the police are aware of the vehicle. This can be achieved by the use of police tape/police aware stickers or similar.

2. Vehicle Recovery Scheme

- 2.1 The Vehicle Recovery Scheme (VRS) is designed to provide a support service to Police Scotland in relation to the removal of vehicles. Proper use will reduce the time officers are engaged at incidents and will minimise unnecessary costs.
- 2.2 In all instances officers should supply the Area Control Room (ACR) with as much information as possible relating to the incident to ensure that a suitably equipped VRO is despatched.
- 2.3 The following information is required:
 - Exact locus;
 - Reason for recovery;
 - Recommended approach route;
 - Condition and position of vehicle - on/off road;
 - Type of recovery requested (front / full lift / Hi-Ab / Forensic);
 - Any other vehicles, trailers, caravan etc involved;
 - Debris requiring removal; and
 - Hazards from spilled load (carriage of dangerous goods) or human tissue.

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- 2.4 Full vehicle details are also required and must include the following:
- Make, model and colour;
 - The vehicle registration mark, if available;
 - Number of passengers to be conveyed;
 - Whether laden / unladen and nature of the load (such as dangerous goods); and
 - Whether a light / heavy vehicle*.

***LIGHT VEHICLE** up to 3.5 tonnes gross weight (Large Transit size van)

***HEAVY VEHICLE** over 3.5 tonnes gross weight

- 2.5 The ACR will contact the appropriate managing agent, who will deploy a VRO to the locus. All VROs should attend at the locus within 30 minutes (light vehicles) or 60 minutes (Public Service Vehicles PSV or Large Good Vehicles LGVs). However this can be longer dependant on severe weather conditions and geographical location, such as rural areas.
- 2.6 The VRO will present the requesting officer with the Vehicle Audit Document (VAD) at the incident scene. The officer must tick one box only in the 'Reason for Removal' section and must sign the VAD, detailing name, register number/shoulder number and station. The ACR incident number is also entered as are driver/keeper details, if known. The officer should also complete the retention / disposal section and stipulate the examination required e.g. collision investigation, mechanical examination, drug search.
- 2.7 The VRO is responsible for locus clearance (however may require assistance from other agencies) including vehicle, passenger and debris removal. The VRO is also responsible for items contained within recovered vehicles unless removed at the request of the owner or for police purposes. Vehicle keys and immobiliser controls must stay with the vehicle. The VRO is not responsible for removing human or animal tissue from any vehicle or locus. In such circumstances advice should be sought from the Duty Officer.
- 2.8 Under no circumstances are officers to contact VROs directly to arrange removals. Such requests **must** be made via the ACR.
- 2.9 **On no account are officers to discuss potential removal fees, it is sufficient to inform vehicle owners/drivers there is a cost involved.**

3. VRS Administration

- 3.1 The VRS is administered from 2 offices in Glasgow and Edinburgh, covering the west, north and east command areas. The VRS administration teams must be made aware of all developments or the reasons for continued retention of any vehicle.

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- 3.2 Once released the enquiry officer will notify the appropriate administration team in Glasgow or Edinburgh via email:

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- 3.3 VROs will make the necessary arrangements with owners for the collection of vehicles.
- 3.4 All documentation will be retained and disposed of in accordance with the [Police Scotland Record Retention SOP](#).

4. Control Room Procedures

- 4.1 On receiving a request for recovery, ACR staff will pass all relevant information to the relevant contractors. The managing agent requires accurate locus details to permit selection of the most suitable VRO to attend the incident. The managing agent will advise which VRO is attending and give an estimated time of arrival (ETA), which should be passed to the officer requesting the recovery. The incident number should also be given for inclusion on the VAD. All contracted VRO's are registered receivers of information from the Police National Computer (PNC) and details of the last registered keeper can be made available to the VRO.

5. Categories of Recovery

- 5.1 Officers are empowered to remove vehicles and in certain instances property in the following circumstances:
- Stolen;
 - Abandoned;
 - Obstruction /Danger;
 - RTC Police Powers;
 - Serious/Fatal RTC (Exam);
 - Section 165A, RTA 1988 - No Licence/Insurance;
 - ASBO;
 - Parked in Contravention of Prohibition / Restriction
 - Crime Production;
 - Forfeiture;
 - Owners Request;
 - Prisoners Vehicle;

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- Street to Street;
- End of Life Vehicles;
- Police Vehicle.

6. Stolen and Abandoned Vehicles

6.1 Stolen Vehicles

- 6.1.1 Where owners or insurers are unable to uplift recovered stolen vehicles, they may be recovered under VRS, preventing further criminal interference such as vandalism or being re-stolen.
- 6.1.2 If the owner cannot be contacted or cannot make arrangements to remove the vehicle, which are acceptable to the officer and within a reasonable timescale, then the officer should advise the appropriate ACR that a Statutory Removal under VRS is required. Under these circumstances the owner will be responsible for the recovery costs, of which they should be advised, the advice noted in the officers notebook and the incident log updated. Where an owner cannot be traced officers should record details of all attempts made to contact the owner against the incident number at the ACR.
- 6.1.3 Where unidentified suspect stolen vehicles are found burned out, officers should be aware of the implications of examining such vehicles and ensure that they are aware of the hazards and control measures, highlighted within the Safe System of Work - Initial Examination of Burnt Out Motor Vehicles guidance, along with the RPU Stolen Impounded Vehicle Examinations Generic Risk Assessment. (see also section 15.3).
- 6.1.4 Officers involved in any accidents/incidents/near misses when examining stolen/abandoned/burnt out vehicles, should refer to the Accident/Incident/Near Miss Reporting and Investigation Guidance Document.
- 6.1.5 In the first instance where a stolen vehicle is recovered and is suitable for release the owner must be given an opportunity to arrange for its collection as they may not wish to claim on their insurance. Details of all attempts to contact the owner should be recorded on command and control and the officer's notebook.
- 6.1.6 Cognisance of the requirement for scenes of crime examination should be taken and suitable arrangements made to have the examination carried out at the location. Guidance should be given to the owner re preservation of evidence in this case.
- 6.1.7 The officer should select **Stolen** as the reason for removal on the VAD and request that a marker be placed on the PNC. There will be occasions where a stolen vehicle is required to be seized for a SOC examination. The type of examination must be clearly marked on the VAD. Where a stolen vehicle has been located and the owner is available to uplift same and is willing to make

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the vehicle available for examination, then this should be permitted following suitable guidance being given regarding preservation of evidence. In cases where an owner is not willing to make the vehicle available for SOC examination **and** police deem that recovery of the vehicle is essential to facilitate the forensic examination then **police will be liable** for the recovery costs. In cases where an owner cannot be contacted or is unavailable to attend and police deem that recovery of the vehicle is essential then **police will not be liable** for the recovery costs. The officer must also indicate on the VAD whether or not the vehicle can be released after examination.

6.1.8 For further information see Tracker- Stolen Vehicle Tracking System SOP and Stolen Vehicle SOP.

6.2 Foreign Vehicles and Trailers

6.2.1 When stolen from within a participating state, the state may issue an Article 38 alert in relation to the vehicle or trailer. If traced and circumstances deem it appropriate to seize the vehicle or trailer it will be uplifted and recovered under VRS.

6.2.2 There are two types of alerts:

- **Seize and Retain (SR)** – the vehicle should be seized and the state who initiated the alert informed. This will be done directly from one SIRENE Bureau to another and will require the officer recovering the vehicle to complete and submit, form 108-017 Schengen SIS II Alert – form G (Vehicle) along with a PNC found report. If further information is required to clarify any issues, complete 'form M' and submit to SIRENE Bureau. It is the responsibility of the Law Enforcement Agency that owns the Alert to organise the repatriation of the vehicle but assistance may be given if required.
- **Seize and Forensicate (SF)** – a senior officer must authorise this type of alert. It is likely that a vehicle circulated on Article 38, with a request to 'Seize and Forensicate' will initially only be seized. The officer recovering the vehicle must complete and submit form 108-017 Schengen SIS II Alert – form G (Vehicle) along with a PNC found report.

If further information is required to clarify any issues, complete form 108-011 Schengen SIS II Alert – form M (Miscellaneous Information) and submit to SIRENE Bureau. If action cannot be taken, the reasons why not are to be submitted to the SIRENE Bureau on form 108-018 Schengen SIS II Alert – form H (unable to carry out action).

Before any efforts are made to carry out a forensic examination the SIRENE Bureau should be contacted and they will contact the SIRENE Bureau in the country that owns the alert so as an agreement can be made as to how to progress the examination. The SIRENE Bureau can be contacted.

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6.2.3 When conducting vehicle enquiries on PNC two additional hazard markers may be seen which have been created by other member states. The UK are unable to create them:

- **Stolen or False Matriculation (SM)** – this is a term used by Europe and means that the object is travelling under a false identity such as VRM or identity number. In its broadest term it means that any identification number attributed to it may be false or stolen.
- **Suspicion of Clone (CL)** – Suspicion of Clone means that the item is represented as another legal object.

Both **SM** and **CL** should be dealt with as per **SR**.

6.2.4 All correspondence with the SIRENE Bureau requires the SISII ID number so officers should ensure they record this number when a hit is discovered.

6.2.5 Owners of vehicles stolen from overseas will need to be able to locate and collect them. To do this they will need to contact the VRS administrator for the area where the vehicles was recovered. In all cases, where a vehicle/trailer has been seized, information pertaining to its location, contact details and email addresses of the VRS Administrator who can authorise its release should be passed to the SIRENE Bureau. This will assist with the subsequent repatriation of the vehicle.

6.2.6 **In all cases the VRS administrator must be provided with sufficient proof of ownership prior to releasing the vehicle.**

6.2.7 There will be no cross charging between countries in relation to recovery of vehicles or trailers. In the first instance attempts should be made by the VRS administrator to have the insurance company cover recovery costs but when this is not possible the police will be liable.

6.3 Abandoned Vehicles

6.3.1 Abandoned Vehicles referred to in this section are those that are in a generally roadworthy condition, not end of life vehicles. For information on end of life vehicles see section 15.

6.3.2 On finding such vehicles, attempts must be made to trace the owner. If the owner is traced, they **must** be given the opportunity to arrange for its collection. Details of all attempts made to contact the owner should be recorded against the incident number at the ACR.

6.3.3 If the owner cannot be contacted or cannot make arrangements to remove the vehicle, which are acceptable to the officer and within a reasonable timescale, then the officer should advise the appropriate Control Room/equivalent that a **Statutory Removal** (Road Traffic Regulation Act 1984, Section 99) under VRS is required.

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- 6.3.4 Additionally, in circumstances where a danger or obstruction exists, particularly on a motorway or trunk road location carrying fast traffic, removal should be instigated without undue delay.
- 6.3.5 The officer should select **Abandoned Vehicle** as the reason for removal on the VAD and request that a marker be placed on the PNC.

7. Vehicles Causing Obstruction / Danger to Other Road Users / Road Traffic Collision

- 7.1 If, when attending an incident, an officer considers that a vehicle is causing no immediate danger or obstruction to other road users, a driver or owner should arrange their own recovery. **Officers must never offer a recommendation.**
- 7.2 In circumstances where a danger or obstruction does exist, particularly on a motorway or main route, removal should be instigated without undue delay. Owners/drivers may still be permitted to arrange removal from a hard shoulder, provided this can safely be achieved within 30 minutes (1 hour for LGV`s and PSV`s).
- 7.3 If the driver or owner cannot be contacted, or cannot make arrangements to remove the vehicle, which are acceptable to the officer and within a reasonable timescale, then the officer should advise the ACR that a **Statutory Removal** (Road Traffic Regulation Act 1984, Section 99) under VRS is required.
- 7.4 The officer should select **Danger** or **Obstruction** as the reason for removal on the VAD and request that a 'removed' marker be placed on the PNC.

8. Section 165 Licence / Insurance

- 8.1 Authority exists under Section 165A of the Road Traffic Act 1988 for a constable in uniform to seize a motor vehicle being driven in contravention of Section 87(1) or 143 of the Act. Section 165A is designed to remove motor vehicles from use until valid documents are produced or disposal is arranged. This power is not an alternative to prosecution and must not be used in isolation. In all circumstances where removal is effected, the driver will be charged and either a Conditional Offer of Fixed Penalty (COFP) or standard police report (SPR) will be completed. For further information see Conditional Offer of Fixed Penalty Scheme – Traffic Offences SOP.
- 8.2 Certain conditions must be satisfied before seizure can be considered, any one of which must apply before seizure:
- (a) **Condition 1**
- A Constable in uniform requires, under Section 164, a person to produce his/her licence and counterpart for examination; and,

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- The person fails to produce them; and,
- The Constable has reasonable grounds for believing that a motor vehicle is or was being driven by the person in contravention of Section 87(1).

(b) **Condition 2**

- A Constable in uniform requires, under Section 165, a person to produce evidence that a motor vehicle is or was being driven in accordance with Section 143; and,
- The person fails to produce such evidence; and,
- The Constable has reasonable grounds for believing that the motor vehicle is, or was, being driven in contravention of Section 143.

(c) **Condition 3**

- A Constable in uniform requires, under Section 163, a person driving a motor vehicle to stop the vehicle; and,
- The person fails to stop the vehicle, or to stop the vehicle long enough, for the Constable to make such lawful enquiries as he/she considers appropriate; and,
- The Constable has reasonable grounds for believing that the vehicle is, or was, being driven in contravention of Section 87(1) or 143.

- 8.3 Where a vehicle satisfies those removal conditions outlined above, the Act requires that officers must warn the driver that the vehicle will be seized unless documents are produced immediately.
- 8.4 Prior to considering removal, officers are to carry out database checks for the existence of relevant documents. Driving licence checks may be made using the #DL facility on PNC. Basic insurance checks may also be made via the PNC, which holds data from the Motor Insurance Database (MID), operated by the Motor Insurers' Bureau (MIB) Information Centre. Private motor vehicle policies are automatically updated to MID by insurance companies. Company vehicle policies are updated by fleet managers.
- 8.5 MIB operate a police helpline **(Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs)** or alternatively they can be emailed at www.mib.org.uk, which is available between 0700hrs and 0200hrs Sunday to Thursday and 0700hrs and 0300 hrs, Friday and Saturday. Where the PNC indicates 'insurance not held' but the driver claims to be covered, the enquiry officer or ACR staff may telephone the MIB police helpline. As a minimum, MIB staff require details of the enquiry officer, the driver and the insurance company or broker. Staff will then make direct contact with the insurer or broker to obtain up to date insurance information. In general terms, if the MIB confirm insurance is not held this is sufficiently accurate to provide reasonable grounds to justify seizure of a

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private vehicle.

- 8.6 In all other circumstances, i.e. out with office hours, or where an MIB check is inconclusive; officers are not to rely solely on the MID to ascertain if a policy of insurance exists. One other corroborative factor must be established before vehicles are seized. In addition to any admission by the driver, reference should also be made to PNC (Statutory Off-Road Notification (SORN) / Vehicle Excise Licence (VEL) expiry), the Vehicle Test Certificate database, Scottish Intelligence Database (SID), in an effort to establish reasonable grounds to suggest an absence of insurance. Provided some other corroborative factor supports the MID, the vehicle may be seized.
- 8.7 Historically vehicles used for business purposes such as hire cars, fleet vehicles and those 'in trade' did not have to be individually listed on a specific certificate but may have been insured by way of a block insurance policy held by a company, organisation or trader. **This is now no longer the case and vehicles need to be listed immediately on such policies.** Where there is any doubt the insurance company should be contacted directly or via the MIB.
- 8.8 Drivers of private vehicles may also claim to be driving under third party cover from a separate private comprehensive policy, or a brand new policy not yet entered on the MID. Enquiry out with office hours to establish the validity of such claims may prove inconclusive. Where enquiry cannot establish reasonable grounds for removal, a Home Office/Road Traffic Form 1 (HORT 1) is to be issued and the vehicle is not to be seized under Section 165A. For further information see HO/RT SOP.
- 8.9 If a vehicle, suspected of having been used in contravention of section 87(1) or 143, fails to stop, a constable may seize it at any time within the next 24 hours. Seizure may be effected by entering any premises (other than a private dwelling house, including an integral garage), by force if necessary, where there are reasonable grounds for believing the vehicle to be.
- 8.10 An officer, on seizing a vehicle under Section 165A, shall issue a seizure notice to the driver. The notice should be issued at the time of seizure or without delay. Any delay will unnecessarily prevent the owner/keeper or driver uplifting their vehicle.
- 8.11 A seizure notice is a hard copy document/book. If assistance is required in locating a seizure notice contact a Road Policing Unit for assistance.
- 8.12 The appropriate ACR is to be notified that a **Statutory Removal** is required for **Section 165A** purposes. Where the vehicle owner is present and intimates that they have no intention of obtaining documents or collecting the vehicle, they should be encouraged to sign the 'Owner Disclaimer' section of the VAD to absolve them of any further responsibility.

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- 8.13 Where the driver is not the owner, a further seizure notice will also be issued to the owner and/or last known keeper. It is therefore imperative that officers establish ownership details from the driver and append these to the VAD at the time of removal.
- 8.14 Vehicles removed under Section 165A may be uplifted from the VRO premises by the vehicle owner or their nominee, provided they:
- Produce to any designated Police Station, a valid driving licence and certificate of insurance, authorising that person to drive the vehicle. If the documents and proof of nomination are in order, release will be authorised.
 - Following production of the required documents to the police, attend the VRO premises with identification and proof of vehicle ownership. Provided these documents are in order **and all charges in relation to removal and storage have been paid**, the vehicle will be released.
- 8.15 Prior to releasing any seized vehicle, staff should satisfy themselves that the seized vehicle is specified on an insurance policy.
- 8.16 Staff should note that many private comprehensive policies permit policyholders to drive other vehicles. In most cases however, insurance companies apply conditions to specifically prohibit policyholders from using 'driving other vehicles' cover to secure uplift of seized vehicles belonging to others. **Where an owner seeks to have their vehicle uplifted by a nominee who is attempting to retrieve the seized vehicle in this manner, the relevant insurance certificate will require close scrutiny to ascertain the extent of cover. Where a policy does permit this, it does not negate the requirement for a seized vehicle to be specified on an insurance policy.** If any doubt exists staff can contact the insurance company or MIB police helpline (**Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of public affairs**) to clarify if a nominee's 'driving other vehicles' cover specifically excludes uplift of seized vehicles.
- 8.17 Once documents have been produced and found to be in order, staff are to complete a Section 165A Release Authorisation which is part of the seizure notice. Release may only be authorised to the person presenting valid documents. Once complete, the form should be stamped with an official Police Scotland stamp and transmitted without delay to the VRO or, if transmission is not possible the form given to the owner to present to the VRO to permit prompt uplift by the owner or their named representative.

9. Vehicles Parked in Contravention of Prohibition / Restriction

- 9.1 Use of VRS to remove vehicles parked in contravention of no waiting regulations, should **not** be considered in Local Authority areas where parking has been decriminalised.

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- 9.2 This section deals with vehicles left in contravention of no waiting regulations.
- 9.3 Vehicles parked so as to cause a danger or obstruction, are dealt with in Paragraph 7.
- 9.4 Where an officer discovers a vehicle parked in contravention of regulations, which is **not** causing a danger or obstruction, an attempt must be made to contact the owner and a Fixed Penalty Notice (FPN) should be issued.
- 9.5 If the owner cannot be traced or make arrangements suitable to an officer to move the vehicle within a reasonable timescale, it should be treated as abandoned under Regulation 4 of the (Road Traffic Regulation Act 1984, Section 99).
- 9.6 See Appendix 'D' for decriminalised areas.

10. Vehicles Used or Suspected of Use in a Crime and which, by Necessity, Require to be Seized as a Production

- 10.1 It is competent to seize property (including a motor vehicle), which is required for evidential purposes, where any article found in the possession of an accused person is used, or calculated to be of use, in the commission of an offence. Such a decision is a matter for the officer investigating the crime or occurrence.
- 10.2 Temporary retention of a vehicle for the purposes of a search does not normally constitute seizure as a production under VRS. Liability for removal costs will depend on whether or not a vehicle search uncovered evidence. In such cases, the search outcome should be recorded and advice sought from VRS staff. Where a vehicle is not required for any evidential purpose, but rather is liable for forfeiture, it should not be removed without a warrant.
- 10.3 Officers seizing vehicles as productions are to notify the ACR that they require a removal, under the VRS, to effect a crime recovery under the **Subject of Crime or Serious Crime** heading.
- 10.4 The Senior Investigating Officer (SIO) must make contact with the Procurator Fiscal (PF) at the earliest opportunity to enquire whether the vehicle requires to be retained for prosecution or defence purposes. Under the terms of the Civic Government (Scotland) Act 1982 Part VIIA as amended by the Police (Property) Act 1997, the Procurator Fiscal can certify that they no longer require relevant property under the Act to be held. The outcome of the PF's decision should be forwarded to VRS Administration staff as soon as possible.
- 10.5 Individual officers must not arrange the release of any vehicular production directly with the VRO. The Service generally pays for removals at contract rate, however, in certain circumstances owners of productions may be liable for storage costs.

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- 10.6 There is no need for officers to contact owners to arrange collection of vehicles, as the VRO will carry out this function under VRS. It is of paramount importance that the VRO controls the process thus giving an element of protection to their staff. In any case where the Police consider that a motor vehicle should be seized for court purposes, either as evidence in the case or where forfeiture is sought, early contact should be made by the reporting officer with the appropriate PF for direction.

11. Forfeitures

- 11.1 If an officer considers that forfeiture may be applicable, a warrant must be obtained to search for and seize a vehicle. Section 21 of the Proceeds of Crime (Scotland) Act 1995 and Section 33 of the Road Traffic Offenders Act 1988 refer.
- 11.2 Officers are to advise the appropriate Control Room that a Crime Recovery is required. This type of removal falls within **Police Purposes – Court Forfeiture**.
- 11.3 The enquiry officer will update VRS administration as to the status of the vehicle and, at the earliest opportunity, will advise when the vehicle need no longer be held. VRS administration will thereafter issue a release note to the VRO.
- 11.4 Individual officers must NOT arrange the release of any forfeited vehicle directly with the VRO.

12. Property in the Lawful Possession of Persons Taken into Police Custody - including Drink Drivers, Arrested on Warrant, etc.

- 12.1 Under the terms of the Civic Government (Scotland) Act 1982 Section 82, where a person taken into police custody is in lawful possession of a vehicle, officers can, on behalf of the Chief Constable, require that person to make suitable arrangements for its collection, care and custody. Where that person fails to make suitable arrangements within a reasonable time, officers can make such arrangements on behalf of the owner. Notes should be recorded in the officer's notebook/PDA, the command and control incident and the relevant custody record.
- 12.2 If the arresting officer is satisfied that the vehicle is not causing an unnecessary obstruction, parked illegally or in a dangerous position then the opportunity exists to leave the vehicle parked and secured at the locus. Again, this option should only be utilised if the person in police custody is in lawful possession of the vehicle, the owner has been given the opportunity to arrange for the removal, and is content with the intended course of action.

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- 12.3 If the person, having been notified to remove the vehicle has not done so or arrangements proposed are unacceptable, or is unable to competently make a decision, then the vehicle should be removed using the VRS under the terms of the Civic Government (Scotland) Act 1982.
- 12.4 Officers are to advise the ACR that a recovery is required for a prisoner's vehicle, which falls under **Statutory Removal**. The officer should select **Prisoner's Vehicle** as the reason for removal on the VAD and request that a marker be placed on the PNC. Under these circumstances, **the owner** will be responsible for the recovery costs.

13. Property in Unlawful Possession of Persons Taken Into Police Custody – Including Stolen/Suspected Stolen Vehicles

- 13.1 The Civic Government (Scotland) Act 1982 as amended by the Police (Property) Act 1997 enables the Chief Constable to make arrangements, as they think fit, for the care and custody of property (including vehicles) found to be in the unlawful possession of persons taken into police custody.
- 13.2 Reasonable steps to trace the rightful owner must be taken, details of which must be recorded in the officer's official notebook/PDA.
- 13.3 Specific procedures to deal with recovered stolen vehicles are outlined in Section 6.

14. Street to Street Removals

- 14.1 Certain sporting and entertainment events often involve the implementation of a Temporary Traffic Regulation Order (TTRO) and associated coning schedule, to maintain a clearway. In such circumstances, it may become necessary to remove vehicles, which had been lawfully parked prior to the TTRO taking effect.
- 14.2 Major incidents may also necessitate the removal of parked vehicles to a place of safety, or to permit access for the emergency services.
- 14.3 If the above circumstances dictate that a lawfully parked vehicle requires to be removed, officers are to carry out a PNC ownership check of the vehicle and make attempts to alert the registered keeper/owner of the need for removal.
- 14.4 Where the registered keeper/owner is unavailable or unable to arrange prompt removal, the officer should notify the appropriate control room that a **Statutory Removal** under VRS is required. The officer should select **street to street** as the reason for removal on the VAD. Once removed, it is essential that the PNC is updated with the **exact location** to which the vehicle has been removed.

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- 14.5 It is generally the case that **the police** will be responsible for the recovery costs associated with street to street removal for major incidents with **event organisers** bearing the cost of street-to-street removals required to facilitate events.

15. End of Life Vehicles (Scrapped Vehicles)

- 15.1 End of life vehicles are removed in accordance with the Refuse Disposal (Amenity) Act 1978. The legislation empowers a Local Authority to remove any vehicle or part thereof that has been abandoned without lawful authority on any land in the open air or other land or any part of a highway. Whether or not a vehicle is 'end of life' depends on factors such as; condition, length of time at locus, etc, which will assist in determining whether or not to instigate removal proceedings.
- 15.2 Whilst a police officer has the power to remove an apparently abandoned motor vehicle, the above legislation places a duty on Local Authorities to remove vehicles which are obviously scrap. The role of the police in this regard is to notify the Local Authority of the location of such material.
- 15.3 VRS should only be used to remove end of life vehicles in the following circumstances:
- The vehicle is in such a position as to represent an immediate danger or obstruction; or,
 - The vehicle is burned out, suspected stolen AND there are no readily available means of identifying it.
- 15.4 When an officer becomes aware of a vehicle or part of a vehicle to which the legislation applies, they should:
- Make enquiries locally to trace the owner;
 - Check PNC Owners' records and raise a Found Report.
- 15.5 If unsuccessful in tracing an owner, the Local Authority should be notified to dispose of the vehicle.

16. Police Fleet Vehicles

- 16.1 Where police vehicles have either broken down or been involved in a collision, contact should be made with the relevant ACR and a supervisor informed for vehicle recovery procedures to be implemented.
- 16.2 Airwave and ANPR should be removed or disabled prior to the vehicle being sent to an external agency for repair. For further information see [Automatic Number Plate Recognitions \(ANPR\) SOP](#) and [Airwave SOP](#).

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17. Retention and Disposal of a Seized Vehicle

- 17.1 Regulations, made under the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008, provide for the retention, safekeeping, release and disposal of vehicles seized.
- 17.2 The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008 include the charges that may be levied on the owner before a seized vehicle is released to them. The Regulations provide circumstances where the owner will not be liable for the charges provided that they can demonstrate that when the vehicle was seized they:
- Were not the person driving it at the time of seizure; and,
 - Did not know it was being driven; and,
 - Had not consented to its being driven; and,
 - Could not reasonably have taken steps to prevent its being driven.
- 17.3 In such cases (assuming the vehicle is stolen or subject to section 178 of the Road Traffic Act 1988) refer to section 6 where, in most cases, the cost will be borne by the victims' insurers.
- 17.4 Where the driver of the vehicle is not the registered keeper or owner of the vehicle, the reporting officer shall also, as soon as he is able after the vehicle has been taken in to custody, take such steps as are reasonably practicable to give a seizure notice to the registered keeper and to the owner where that appears to be someone different.
- 17.5 Officers must ensure that **all** relevant sections of the seizure notice are completed accurately.
- 17.6 The seizure notice must be dated and can be delivered in the following ways:
- By delivering it to the relevant person, or to the registered keepers address or by sending it there by registered post;
 - In the case of an owner by leaving it at or sending it via recorded delivery to their usual or last address;
 - If the vehicle is a company or hire car, the notice can be delivered or sent via registered mail to the company secretary, or clerk at the body's registered or principal office.
- 17.7 In practice, hand delivery is the preferred method of execution.
- 17.8 To retrieve their vehicle the owner must first present themselves at a designated police station with a valid driving licence authorising that person to drive the vehicle and a certificate of insurance authorising the driver's intended use of the vehicle. The vehicle release will thereafter be authorised and the owner should then attend at the specified VRS garage with the release notice, identification and proof of ownership. On payment of all outstanding fees the vehicle will be returned to them.

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- 17.9 The release of 'Crime Vehicles' and 'Serious/Fatal Road Crash' vehicles will only be authorised by VRS staff to VROs following consultation with the Senior Investigating Officer (SIO) in the case. The SIO must also consult with the Procurator Fiscal/Crown Office before granting approval for release.
- 17.10 It is imperative that Defence Counsel be given the opportunity to examine vehicles prior to their release. Where the Crown investigation has concluded and the Defence intimate a desire to have a vehicle examined, liability for storage costs transfer to the Defence until such examination is complete. It is the responsibility of the SIO to notify VRS of any Defence interest in a vehicle.
- 17.11 For every vehicle recovered using VRS, and not authorised for immediate release, the VRS Liaison Officer must, in writing within 28 days of removal, confirm whether the vehicle is to be retained or released. Vehicles should only be retained if the Procurator Fiscal has confirmed them as essential productions. If no intimation is received within 28 days that a vehicle is to be retained and the reason why, the vehicle will be released.
- 17.12 For further information see Antisocial Behaviour SOP and Drink, Drug Driving SOP.

18. Complaint Handling

- 18.1 All complaints regarding vehicle recovery and the operation of the scheme will be handled centrally in the first instance by the liaison officer.
- 18.2 Complaints against police officers are dealt with under existing procedures.
- 18.3 Complaints regarding the operation of the Scheme will be passed to the scheme manager for investigation and response.

19. Charges

- 19.1 Officers are **not** to discuss specific charges with vehicle owners or drivers. It is a matter for the VRO to deal with any related payment.
- 19.2 In most cases of Statutory Removal, Police Scotland does not pay for vehicle recovery or removal costs. Where such costs are to be borne by the police, the liaison officer will offer guidance.

20. Property within Vehicles

- 20.1 The safe keeping of property within vehicles being recovered under VRS is the responsibility of the VRO. However, as the vehicle has been seized by police, a cursory check should be made within each vehicle utilising the Safe Systems of Work – Checking Vehicles for Discarded Items and Removal of Items, prior

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to the VRO recovering the vehicle. Where items of police interest are discovered such as; firearms, drugs and stolen property, etc. then these should be recovered / seized in line with established procedures.

- 20.2 The vehicle keys and alarm/immobiliser control unit should remain with the vehicle at all times.

List of Associated Legislation

- Antisocial Behaviour etc. (Scotland) Act 2004
- Civic Government (Scotland) Act 1982
- Police (Property) Act 1997
- Proceeds of Crime (Scotland) Act 1995
- Refuse Disposal (Amenity) Act 1978
- Removal and Disposal of Vehicles Regulations 1986
- Road Traffic Act 1988
- Road Traffic Offenders Act 1988
- Road Traffic Regulation Act 1984
- Serious Organised Crime and Police Act 2005
- The Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005
- The Road Traffic Act (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008
- The Road Traffic (Permitted Parking Area and Special Parking Area) (Aberdeen City Council) Designation Order 2003
- The Road Traffic (Permitted Parking Area and Special parking Area) (City of Edinburgh) Designation Order 1998

List of Associated Reference Documents

Policies

- Road Policing

Standard Operating Procedures

- Airwave
- Antisocial Behaviour
- Automatic Number Plate Recognitions (ANPR)
- Conditional Offer of Fixed Penalty Scheme – Traffic Offences
- Drink, Drug Driving
- HO/RT
- Record Retention
- Stolen Vehicle
- Tracker- Stolen Vehicle Tracking System

Guidance Documents

- Safe Systems of Work - Checking Vehicles for Discarded Items and Removal of Items
- Safe System of Work - Initial Examination of Burnt Out Motor Vehicles
- Accident/Incident/Near Miss Reporting and Investigation Guidance Document

Risk Assessments

- RPU Stolen Impounded Vehicle Examinations Generic Risk Assessment

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Appendix 'C'

List of Associated Forms / Templates

Forms

- Form 108-011 Schengen SIS II Alert – form M (Miscellaneous Information)
- Form 108-017 Schengen SIS II Alert – form G (Vehicle)
- Form 108-018 Schengen SIS II Alert – form H (Unable to carry out action)

Decriminalised Parking Areas

Local Authorities	Division	Decriminalised (Yes/No)
Aberdeenshire Council	A	No
Aberdeenshire City Council	A	Yes (Except Commercial Quay, Regent Quay and Blaikies Quay)
Angus Council	D	No
Argyll and Bute Council	L	Yes
Clackmannanshire Council	C	No
Dumfries and Galloway Council	V	No
Dundee City Council	D	Yes
East Ayrshire Council	U	Yes
East Dunbartonshire Council	G	Yes
East Lothian Council	J	Yes
East Renfrewshire Council	G	Yes
Edinburgh City Council	E	Yes
Western Isles Council	N	No
Falkirk Council	C	No
Fife Council	P	Yes
Glasgow City Council	G	Yes
Highland Council	N	Yes
Inverclyde Council	K	No
Midlothian Council	J	No
Moray Council	A	No
North Ayrshire Council	U	Yes
North Lanarkshire Council	G	Yes
Orkney Islands Council	N	No
Perth & Kinross Council	D	Yes
Renfrewshire Council	K	Yes
Scottish Borders Council	J	No
Shetland Islands Council	N	No
South Ayrshire Council	U	Yes
South Lanarkshire Council	G	Yes
Stirling Council	C	No
West Dunbartonshire Council	L	No
West Lothian Council	J	No

Glossary of Terms

- ACR - Area Control Room
- ASBO - Anti Social Behaviour Order
- ETA - Estimated Time of Arrival
- FPN - Fixed Penalty Notice
- LGV - Large Goods Vehicle
- HORT1 - Home Office Road Traffic Form 1
- MIB - Motor Insurers Bureau
- MID - Motor Insurance Database
- PDA - Personal Digital Assistant
- PF - Procurator Fiscal
- PNC - Police National Computer
- SID - Scottish Intelligence Database
- SIO - Senior Investigating Officer
- SOC - Scenes of Crime
- SOP - Standard Operating Procedure
- SORN - Statutory Off-road Notification
- TTRO - Temporary Traffic Regulation Order
- VAD - Vehicle Audit Document
- VEL - Vehicle Excise Licence
- VRO - Vehicle Recovery Operator
- VRS - Vehicle Recovery Scheme