



BERMUDA

MOTOR VEHICLE IMPOUNDING REGULATIONS 2010

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The Minister responsible for Transport, in exercise of the powers conferred by sections 102, 103 and 123I of the Motor Car Act 1951 (the "Act"), makes the following regulations:

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### Citation

1 These Regulations may be cited as the Motor Vehicle Impounding Regulations 2010.

### Definitions

2 In these Regulations —

“operator” in relation to a pound means a person who is designated under section 123H of the Act as being authorized to act as the operator of the pound;

“towing vehicle” means a vehicle that is designed for towing motor vehicles;

“towing vehicle driver” means a person who is designated under section 123H of the Act as being authorized to tow motor vehicles.

### Designation of pound

3 There is hereby designated as a pound any place in respect of which a permit to operate the place as a pound has been issued by the Minister under these Regulations.

### Requirements for obtaining a permit

4 (1) A person who wishes to obtain a permit to operate a place as a pound shall make an application to the Minister in such form as may be determined by the Minister.

(2) An application for a permit for the operation of a place as a pound shall not be granted unless—

- (a) the Department of Planning has approved the use of the place for the storage of motor vehicles;
- (b) the Department of the Environment has confirmed that the operation of the place as a pound will not have a negative impact on the environment;
- (c) the Bermuda Fire and Rescue Service has confirmed that there is adequate and safe road access to the place and that the place would not interfere with access to other premises in the vicinity of the premises in the event of a fire or other hazardous occurrence;
- (d) the place has the capacity to store at least 10 motor vehicles (excluding motor cycles and auxiliary bicycles) and 20 motor cycles or auxiliary bicycles;
- (e) the place, by reason of its location or use, is not likely to cause risk or serious inconvenience to vehicular traffic on nearby roads; and
- (f) the access to the place—
  - (i) at its point of contact with any road, is more than 20 feet from any intersection or bus stop,
  - (ii) is at least 12 feet in width throughout its entire length, and

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- (iii) is constructed of concrete or other suitable material and properly graded where it joins any road or crosses a sidewalk.

### Right to make representations

5 The Minister shall afford an applicant for a permit an opportunity to make representations with regard to the application for a permit.

### Notice of decision

6 (1) The Minister shall give an applicant for a permit notice in writing of the Minister's decision to grant or refuse the application for the permit.

(2) If the decision is to grant the application, the Minister shall issue the permit in a form determined by the Minister.

(3) If the decision is to refuse the application, the notice referred to in paragraph (1) shall set out the reasons for the refusal.

### Conditions applicable to permit

7 A permit that is issued to an operator of a pound is subject to the following conditions—

- (a) the operator shall take adequate measures to ensure the security of motor vehicles that are impounded at the pound, including provision of perimeter fencing, security cameras and an alarm system linked to a local security service provider;
- (b) the operator shall have a towing vehicle that is capable of towing or transporting motor vehicles that have been seized to the pound;
- (c) the operator shall ensure that the services of the pound for towing and impounding of motor vehicles are available at all hours throughout the year;
- (d) the operator shall respond to requests for towing of a motor vehicle within one hour after receiving a request;
- (e) the operator shall ensure that the pound is open for operations, and that there are personnel available at the pound, during the following hours for the purpose of dealing with requests for release of motor vehicles that have been impounded—
  - (i) Monday to Friday for at least 10 continuous hours between the hours of 6:00 a.m. and 6.00 p.m. (excluding public holidays), and
  - (ii) Saturday from 10:00 a.m. to 4:00 p.m.;
- (f) the pound shall not be used for any purpose other than the impounding of motor vehicles, except with the prior written approval of the Minister;
- (g) the operator shall, in accordance with regulation 13, maintain records in respect of all motor vehicles that are towed to or impounded at the pound;

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- (h) the operator shall maintain valid insurance coverage against loss or damage to motor vehicles that are towed to or impounded at the pound; and
- (i) the operator shall display the permit in respect of the pound in a location at the pound that is easily visible to persons visiting the pound.

### Duration of permit

8 Subject to regulation 10, a permit to operate a place as a pound is valid for a period of three years and upon expiry of that period the designation of the place as a pound under regulation 3 ceases to have effect, unless the permit is renewed under regulation 9.

### Renewal of permit

9 A permit to operate a place as a pound may be renewed, upon application by the operator of the pound, for further periods of three years at a time if—

- (a) the requirements of regulation 4 continue to be met at the time of the application; and
- (b) the operator is not in breach of the conditions set out in regulation 7.

### Surrender or revocation of permit

10 (1) An operator of a pound may surrender the permit to operate the pound at any time upon giving three months notice in writing to the Minister.

(2) The Minister may revoke a permit to operate a pound at anytime if the operator has breached any of the conditions set out in regulation 7 or if the pound is no longer being used for the impounding of motor vehicles.

(3) When a permit is surrendered or revoked, the designation of the place as a pound under regulation 3 ceases to have effect.

### Permit not transferable

11 A permit for the operation of a place as a pound is not transferable.

### Inspections

12 (1) The Minister, any officer of the Department or any person authorized by the Minister may at all reasonable times enter—

- (a) a place that is the subject of a permit application for the purpose of inspecting the place in order to determine whether it meets the requirements of these Regulations for the issue of a permit; and
- (b) a pound for the purpose of inspecting the pound in order to determine whether the requirements of these Regulations in respect of the pound are being complied with.

(2) The operator of a pound shall—

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- (a) give a person who carries out an inspection of the pound all reasonable assistance to carry out the inspection; and
- (b) provide that person with any information relating to the operation of the pound that the person may reasonably require.

### Records

13 (1) The operator of a pound shall maintain records regarding every motor vehicle that is towed to or impounded at the pound. The records shall contain the following particulars for each motor vehicle—

- (a) the time and date when the motor vehicle was brought to the pound and the place from which it was brought;
- (b) the name of the person who brought the motor vehicle to the pound;
- (c) a list of any property found in the motor vehicle when it was brought to the pound;
- (d) the name and address of the owner of the motor vehicle;
- (e) the licence plate number of the motor vehicle or, where there is no plate, the Vehicle Identification Number;
- (f) the model, style and colour of the motor vehicle;
- (g) the time and date of release of the motor vehicle;
- (h) the name and driver's licence number of the person to whom the motor vehicle is released;
- (i) a copy of the certificate of release issued by the Minister in respect of the motor vehicle;
- (j) photographs of the motor vehicle at the time it was brought to the pound and at the time it was released;
- (k) details of charges made by the operator of a pound in respect of the impounding of the motor vehicle and, where applicable, in respect of the towing of the motor vehicle; and
- (l) where the motor vehicle has not been released, details of the manner of disposal of the motor vehicle.

(2) The operator of a pound shall maintain the records referred to in subsection (1) for a period of not less than two years in respect of each motor vehicle that is brought to the pound.

(3) Records shall be made available for inspection at any reasonable time, upon request by any person who carries out an inspection under regulation 12.

(4) A person who carries out an inspection may take copies of records and for that purpose may use any copying equipment at a pound free of charge.

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(5) The operator of a pound shall deliver the records or a copy of the records to the Department when the permit in respect of the pound expires, is surrendered or is revoked.

### Disposal of motor vehicles

14 The operator of a pound shall not dispose of any motor vehicle without the prior written approval of the Department.

### Confidentiality

15 The operator of a pound shall not disclose any confidential information that is provided by the Department or the Bermuda Police Service to the operator except with the consent of the Department or the Bermuda Police Service, as the case may be.

### Requirements applicable to towing vehicles

- 16 A towing vehicle shall be—
- (a) of a type approved by the Department for the purpose of towing motor vehicles;
  - (b) licensed and insured; and
  - (c) maintained in good working order and in roadworthy condition.

### Requirements applicable to towing vehicle drivers

- 17 A towing vehicle driver shall—
- (a) have a valid driver's licence for the towing vehicle and any motor vehicle that is being towed; and
  - (b) have insurance against loss or damage to motor vehicles that are towed by the towing vehicle.

### Authorization to tow motor vehicles

18 A motor vehicle that has been seized by a police officer under section 123B of the Act shall not be towed unless the towing is authorized by a police officer.

### Charges for towing and impounding motor vehicles

19 The following are the charges that are payable in respect of the towing and impoundment of motor vehicles—

#### Towing

Motor vehicles (other than motor cycles and auxiliary bicycles) - the regular charge for towing such motor vehicles, not exceeding \$130

Motor cycles and auxiliary bicycles - the regular charge for towing or transporting such motor cycles or auxiliary bicycles, not exceeding \$90

#### Impoundment

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Motor vehicles (other than motor cycles and auxiliary bicycles) - \$20 per day or part of a day

Motor cycles and auxiliary bicycles - \$10 per day or part of a day.

Made this 8th day of July, 2010

Premier