

IMMOBILISATION

Contents

1. Background	3
2. Immobilisation Device	3
3. VOSA Immobilisation Policy	3
4. Device Fitment	4
5. Device Removal	4
6. Vehicle Removal	5
7. Offences	5
8. How to avoid Immobilisation	5
9. Disputes	6
10. Notices	6
10.1 Immobilisation Notice	7
10.2 Removal Notice	8
10.3 Document Wallet	9
11. Legislation	10

1. Background

Immobilisation is a new power available to VOSA to help to enforce prohibitions issued against the further use of vehicles, when infringements or regulation breaches committed by the driver have been discovered. VOSA will be able to lock a device to the vehicle to stop it from being driven.

Immobilisation was introduced by an amendment to the Road Traffic Offenders Act 1988 contained in the Road Safety Act 2006. This means that any vehicle prohibited with immediate effect for any of the following reasons could be subject to Immobilisation;

- Drivers' hours regulation breaches
- Roadworthiness issues
- Overloading
- Non-payment of a financial deposit requirement

This measure has been introduced to address the problem of non-compliance with immediate prohibitions, namely a prohibited vehicle being driven off unlawfully while still under prohibition, and to counter fears that the new prohibitions associated with the non-payment of deposit requirements may lead to an increased likelihood of such non-compliance.

2. Immobilisation Device

The Regulations provide that only a device of a type approved by the Secretary of State may be used to immobilise vehicles. VOSA has approval to use a PVC covered steel cable secured by a padlock as an immobiliser. A similar device is in operation by enforcement authorities in the Netherlands. The steel cable will be fitted around or through wheels and body parts of the vehicle and will be brightly coloured and visible so that drivers will see it easily. A warning notice will also be attached to the vehicle via an adhesive wallet. Also contained in the wallet will be further information to enable a driver or an operator to deal with the prohibition issues that led to the Immobilisation.

3. VOSA Immobilisation Policy

VOSA does not intend to immobilise every prohibited vehicle. Generally, immobilisation will be applied where there are serious breaches which could greatly affect road safety. In the main, the Immobilisation Device will be deployed:

- In any case where the continued use of a vehicle represents a danger to other road users (either because the vehicle is seriously defective, overloaded beyond design weights, or because the driver has driven for too long, or has taken insufficient rest); or

- When a person who has been requested to pay a financial penalty deposit has failed to make such a payment, **and**
- Effective remedies to these matters cannot be put in place in a reasonable time i.e. approximately within an hour.

In addition, examiners will use their discretion to immobilise in cases where the vehicle has been prohibited for less severe breaches, but other available details, or intelligence information leads to a suspicion that the driver of the vehicle will not adhere to the conditions of the prohibition.

VOSA examiners will always make an assessment of the need and appropriateness of immobilisation and while considering the above stated policy will take into account factors such as, but not limited to, load and passengers.

From June 2011, in all cases where a vehicle has been correctly immobilised, VOSA will charge, in accordance with legislation, a release fee of £80. It should be noted that this release fee is a charge against the operator and not a penalty payable by the driver.

The revenue stream from this activity will go some way to offset the costs of the immobilisation scheme.

4. Device Fitment

Immobilisation Devices may only be fitted by authorised examiners (and police) or by someone acting under their direction. All VOSA examiners engaged in this activity will be trained to apply the device correctly and safely, in consideration of their own and the public's safety and will at all times avoid any damage to the subject vehicle. They will all have received guidance on which sensitive components must be avoided in fitting the device.

Where there is pre-existing damage to a vehicle, examiners are instructed to photograph this both before and after fitment of the device.

5. Device Removal

The device will be removed in the case of:

- Roadworthiness prohibitions - when a removal, variation or exemption notice is issued
- Overweights – when the removal notice is issued
- Drivers' hours and tachograph regulation breaches – at the expiry of the prohibition period or the issue of an exemption notice
- Non-payment – on receipt of full payment
- Multiple prohibitions – when all prohibition matters have been dealt with satisfactorily.

And

- Full payment of the release fee is received by VOSA

The Immobilisation Notice gives details on how and when application can be made to have the device removed, but in many cases this will not be required as an examiner's presence is often required to attain a prohibition free status.

The notice will also give full details of how and by what means payment of the release fee can be made.

Immobilisations that have followed a prohibition of fixed duration will have the release activity timetabled into the local examiner's or contractor's activities.

Application for a release will certainly be needed after a payment of a Deposit Requirement when this has taken place via a third party to the Fixed Penalty Office or where the immobilised vehicle was the subject of multiple prohibitions. In these instances, VOSA undertakes to release a vehicle within 1 hour of being informed that all prohibition matters have been satisfactorily dealt with.

It is anticipated that the removal of the device will be carried out by attending VOSA staff, however in circumstances where an out of hours release is required, this may be carried out by a VOSA appointed contractor. Full details on the conditions to be met before release accompanies the notice attached to the vehicle.

6. Vehicle Removal

Legislation allows examiners to remove a vehicle into safekeeping in addition to applying an Immobilisation Device. However this will only take place in circumstances where, for example, there is an acute risk of criminality associated with the immobilised vehicle or the vehicle appears to have been abandoned.

Vehicles that remain immobilised for 5 days may be considered by VOSA to be abandoned. Such vehicles may be taken into safekeeping. In the event of this happening, VOSA will notify the driver (if present), the apparent user (if driver not present) and the registered keeper. Vehicles may be reclaimed from safekeeping on payment of charges to cover removal, storage and device removal. Vehicles not reclaimed after 3 months will be disposed of and the proceeds used to offset any unpaid charges. VOSA intend to use the services of a contractor to carry out these activities.

7. Offences

There are the following offences associated with Immobilisation.

It is an offence to:

- remove or interfere with an Immobilisation Device (max. £1000)
- remove or interfere with an Immobilisation Notice (other than the owner or driver max. £500)
- misuse a disabled persons badge (max. £1000)
- give false and misleading statements to procure the release of vehicle. (Summary Only max. £5000, Indictment, max. up to 2 years)

In all cases, it will be VOSA's policy to investigate and to prosecute where these offences are detected.

8. How to avoid Immobilisation

Immobilisation is directly linked to immediate prohibitions. A reduction in the likelihood of being subject of an immediate prohibition is accompanied by a similar reduction in the risk of being immobilised. In practical terms this means

- Review maintenance procedures. Monitor driver walk-round checks for effectiveness.
- Review drivers' hours monitoring systems, review quality of scheduling to reduce risk of infringements.
- Review procedures in connection with agency drivers.
- Encourage drivers to be in a position to give a valid UK address to enforcement staff.
- For non-UK drivers ensure that a roadside deposit payment can be arranged if necessary.

9. Disputes

In accordance with the new powers, VOSA examiners will only apply an Immobilisation Device to support a prohibition that is in force with immediate effect.

If it is felt that immobilisation has followed an incorrectly issued Prohibition Notice, then an appeal must be made against the issue of the prohibition in the manner described in the explanatory notes issued with the Prohibition Notice.

Where such an appeal is upheld, the removal of the applied Immobilisation Device and the refund of the release fee, if paid, will follow.

If it is considered that damage has been caused to a vehicle during either the fitting or the removal of the device, then a claim should be made in the first instance with the management team of the Area in which the device was fitted via the contact details on the Immobilisation Notice.

For further information on making an appeal against a refusal to remove prohibition or lodging a complaint contact the national enquiry line or visit www.vosa.gov.uk.

10. Notices

VOSA are introducing 2 new notices and an adhesive wallet in connection with immobilisation:

10.1 Immobilisation Notice

This notice is handed to the driver and/or placed in the adhesive wallet attached to the immobilised vehicle along with copies of Prohibition Notices in force.

(front)

000206-1-IM

VOSA
Vehicle & Operator Services Agency

IMMOBILISATION NOTICE
Road Safety Act 2006 Schedule 4
Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009

Date: 07/04/2011 Time: 11:45 hrs

This vehicle HGV100 has been immobilised under the above legislation. The driving of this vehicle has been prohibited as detailed on the accompanying Prohibition Notice(s) / Financial Deposit Requirements.

No attempt should be made to drive or otherwise move this vehicle until it has been released from the immobilisation device.

Warning – It is an offence to:

- Remove or interfere with this immobilisation notice.
- Remove or interfere with the immobilisation device.
- Make a false or misleading declaration which would allow a person to recover the vehicle.
- Drive or cause or permit a vehicle to be driven in contravention of a prohibition.

A release fee of £80 is required: (see overleaf for payment details)

Release of Vehicle
When the required action for all the Prohibition(s) has been met (see overleaf), and the release fee paid, contact the number shown below to arrange for a release.

Removal of Vehicle

Warning: This vehicle may also be liable to be removed into storage if the conditions for release are not met. In such an event, charges in respect of the removal, storage and release of the vehicle will be incurred. (See overleaf for charges and restoration).

Failure to reclaim an impounded vehicle may result in the vehicle being sold, destroyed or otherwise disposed of; any monetary proceeds of such action will be used to offset any unpaid charges incurred and all costs associated with processing and storage.

For release, contact: Name: _____
Telephone Number: _____

An executive agency of the
Department for
Transport

(rear)

Removal of Immobilisation Device

To allow this vehicle to be released the following conditions must be met:

Prohibitions (as attached to this notice)

- Drivers' hours offences under section 96A(1) of the Transport Act 1968 - the prohibition period must have expired.
- Mechanical defects – a prohibition removal notice* has been issued and is in your possession
- Overweight vehicles – a prohibition removal or direction notice has been issued and is in your possession.
- Unpaid Financial Deposit – it can be demonstrated that full payment has been made.

**Note: If suitable remedial arrangements have been made an exemption or variation notice may suffice*

Warning: A vehicle may be considered as abandoned, if, after 5 days, no application is made to remove an immobilisation device.

Release Fee

The immobilisation device removal fee is applicable (see overleaf), this must be paid to the VOSA examiner or to the VOSA Contact Centre via +44 (0)300123900, before removal arrangements are made.

- The fee is £80 (paid before removal) by:
 - sterling (if paying in person to an examiner)
 - credit or debit card (if facilities are available)

Restoration of Removed Vehicles

If your vehicle is **removed** under the conditions shown overleaf the following charges will apply:

- Removal of vehicle..... £160
- Storage of vehicle..... £35 per day or part thereof
- Device Removal..... £80
- Vehicle Disposal £50

Full payment of all incurred charges must be made, either by cash or credit/debit card before the release of a removed vehicle will be permitted.


10.2 Removal Notice

This notice is given to the driver if present, alternatively sent to the apparent user and the registered keeper and is a requirement of the legislation.

(front)

(rear)

Road Safety Act 2006 Schedule 4
Road Safety (Immobilisation, Removal and Disposal of Vehicles)
Regulations 2009

VOSA 
Vehicle & Operator Services Agency

Removal Notice

REF NO: _____

Notice is hereby given that the Vehicle & Operator Services Agency (VOSA), under Reg.10 of the Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009 has directed that the vehicle detailed below is removed.

Registration / Trailer Number _____ Make: _____
Type: _____
The vehicle was not / was laden with _____
The vehicle was immobilised, and has been delivered into the custody of: _____
And is currently located at: _____
The vehicle has been removed by: _____
under the direction of _____ an authorised VOSA examiner,
Date: ____/____/____ Time: _____

Any person wishing to reclaim the vehicle must:

1. Meet the relevant conditions detailed overleaf; then
2. Contact the Area Senior Vehicle/Traffic Examiner

Name: _____ Tel No: _____

Warning:
Failure to reclaim the vehicle within 3 months of the date on which the vehicle was removed, or the direction to remove the vehicle was given, will result in the vehicle being liable to be disposed of, sold or destroyed. The proceeds of the disposal will be used to recover charges in respect of release, removal, custody and disposal.

Disputes:
A person may make representations, providing supporting evidence of them, if that person claims that the removal of a vehicle was not in compliance with the Regulations. In the first instance the claim should be forwarded to:
Senior Vehicle/Traffic Examiner, VOSA, _____

If the matter is not resolved, an application may be made to the Magistrates' Court (in England and Wales) or the Sheriff's Court (in Scotland). The relevant court details are available from the VOSA address above. **You are strongly advised to seek legal advice before making an application to court.**

For details of Reclaiming the Vehicle,
Please see overleaf.

An executive agency of the
Department for
Transport
19-04-09

Reclaiming the Vehicle

Evidence of the following will be required:

- the person claiming the vehicle is
 - the owner of the vehicle **or**
 - was the driver when it was directed to be removed.

The person above must also demonstrate, where applicable:

- Payment of the immobilisation device release fee.
- Removal or expiry of any prohibition currently in force preventing the driving of the vehicle by way of:
 - prohibition removal notice* (Roadworthiness, Overweight, Foreign vehicles permits, etc).
 - the prohibition period has elapsed (Drivers' Hours).
 - payment of any deposit requirement, the non-payment of which led to the prohibition being in force at the time of the removal.
 - Payment of all charges connected to the removal, storage and custody of the vehicle as detailed below.

**Note: if suitable remedial arrangements have been made an exemption or variation notice may suffice.*

Charges

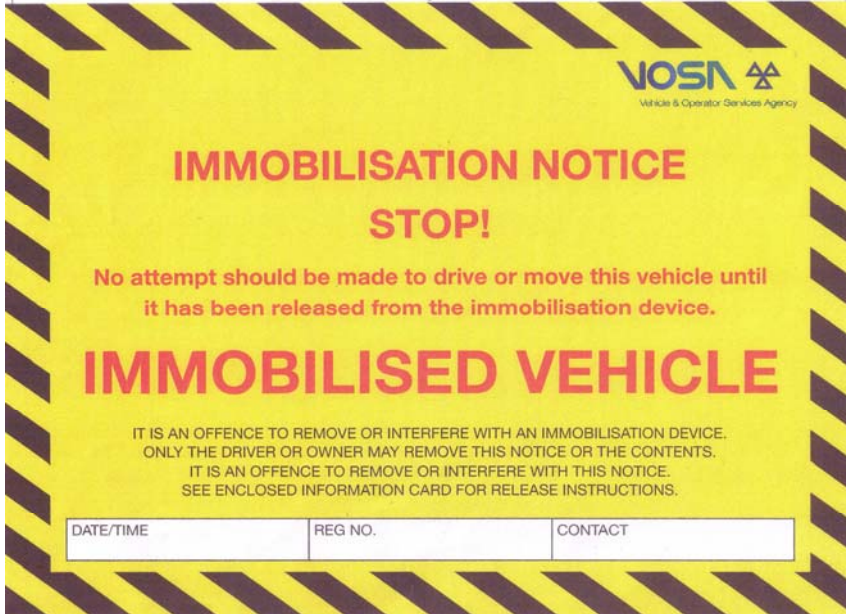
Release of immobilisation device:	£80
Removal of vehicle:	£160
Storage of vehicle:	£35 per day or part thereof
Disposal	£50


Warning:
Failure to reclaim the vehicle within 3 months of the date on which the vehicle was removed or the direction to remove the vehicle was given, will result in the vehicle being liable to be disposed of, sold or destroyed. The proceeds of the disposal will be used to recover charges in respect of release, removal, custody and disposal.

19-04-09

10.3 Document Wallet

This item is attached to an immobilised vehicle and will contain an Immobilisation Notice and copy Prohibition Notices, copy Deposit Requirement Notice and further explanatory notes when applicable.



VOSA 
Vehicle & Operator Services Agency

IMMOBILISATION NOTICE
STOP!

No attempt should be made to drive or move this vehicle until
it has been released from the immobilisation device.

IMMOBILISED VEHICLE

IT IS AN OFFENCE TO REMOVE OR INTERFERE WITH AN IMMOBILISATION DEVICE.
ONLY THE DRIVER OR OWNER MAY REMOVE THIS NOTICE OR THE CONTENTS.
IT IS AN OFFENCE TO REMOVE OR INTERFERE WITH THIS NOTICE.
SEE ENCLOSED INFORMATION CARD FOR RELEASE INSTRUCTIONS.

DATE/TIME	REG NO.	CONTACT
-----------	---------	---------

11. Legislation

Road Traffic Offenders Act 1988

Road Safety Act 2006

The Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009
(S.I. 2009/493)