

GLEAM



Green Lanes Environmental Action Movement

GLEAM P.O. Box 5206, Reading RG7 6YT.

www.gleam-uk.org

Patron: HRH The Duke of Edinburgh KG KT

From the Chairman:
D.A.W. GARDINER, DL

THE OLD RECTORY
LILLEY
NEWBURY
BERKS RG20 7HH

Tel/Fax: 01488 638227
Mobile: 07831 148640
E-mail: DAWGardiner@aol.com

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Practical Implications of ss.59-60 Police Reform Act 2002 and
Statutory Instrument No 3049, The Police (Retention and Disposal of Motor Vehicles)
Regulations 2002

Summary of the Act and Regulations

1. Under s.59(1) of this Act, which came into effect on 1.1.03, a constable in uniform who has reasonable grounds for believing that a motor vehicle is being used without lawful authority-
 - a. on a footpath, bridleway or restricted byway, **or**
 - b. on any common land, moorland, or other land not being part of a road, **or**
 - c. on a road or other public place without due care and attention, or without reasonable consideration for other users,**and** is causing, or is likely to cause, alarm, distress or annoyance to members of the public, has the powers set out in s.59(3).
2. Under s.59(2) a constable in uniform has the powers in s.59(3) if he has reasonable grounds for believing that a motor vehicle has been used **on any occasion** in a manner falling within s.59(1).
3. Under s.59(3) those powers are-
 - a. if the motor vehicle is moving, to order the person driving it to stop the vehicle;
 - b. to seize and remove the motor vehicle;
 - c. for the purpose of exercising the power in a. or b., to enter any premises (but not a private dwelling house) on which he has reasonable grounds for believing the motor vehicle to be;
 - d. to use reasonable force, if necessary, to exercise the powers in a. to c.
4. Under s.59(4) a constable shall **not** seize a motor vehicle unless-
 - a. he has warned the person whose use falls within s.59(1) that he will seize it, if that use continues or is repeated; and
 - b. it appears to him that the use has continued or been repeated after the warning.

5. Under s.59(5), a constable does not have to give a warning on any occasion on which he would otherwise have the power to seize a motor vehicle if-
 - a. the circumstances make it impracticable for him to give the warning;
 - b. he has already on that occasion given a warning in respect of any use of that motor vehicle, or of another motor vehicle by that person or any other person;
 - c. he has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him;
 - d. he has reasonable grounds for believing that the person whose use of the motor vehicle on that occasion would justify the seizure is a person to whom a warning has been given (whether or not by that constable, or in respect of the same vehicle or the same or similar use) on a previous occasion in the previous twelve months.
6. A person who fails to stop when ordered to do so under s.59(3)(a) is guilty of an offence.
7. Under Regulations Clauses 5 and 6, to have a seized motor vehicle released from custody, the owner must pay the police authority a charge of £105 for its removal, plus £12 for every day (or part thereof) that it was in custody.
8. Under Regulations Clause 7, under circumstances specified in complex regulations, if the motor vehicle has not been released from custody, usually after 21 days, the police authority may dispose of it. (Some have been known to crush trail bikes.)

Interpretation

1. This new legislation can be a very powerful tool for controlling 4x4s and trail bikes that have been observed causing severe damage or adding to severe damage that has already been caused to public rights of way, thereby driving without reasonable consideration for other users, and causing annoyance to members of the public.
2. To implement the legislation, the observation does not necessarily have to be by a constable in uniform. To have at least one constable posted on a public right of way to make such observations would be an unsustainable drain on scarce police resources, and he would have to have at least one member of the public present to register alarm, distress or annoyance. For a constable to issue warnings is not so difficult, but to seize several vehicles and remove them from a remote rural location is a much more difficult and expensive operation.
3. The observation could perfectly well be done by a member of the public (or, better, by two corroborating but unrelated members of the public), provided they can supply the police with definitive evidence of the offending vehicle(s). This would consist of details of date, time, location, direction of travel, description of the vehicle(s) (make, colour, registration number) and if possible the driver, backed up if possible by a photograph. It is probably best for one person to take photographs, and for the other to record details of the vehicle(s), as it is almost impossible for one person to do everything. This evidence should then be supplied to the police, together with a signed statement registering the alarm, distress or annoyance of the observers, and a request for a warning to be issued or the vehicle(s) seized under s.59(2).
4. One type of vehicle that it will not be possible for observers fully to record is unregistered trail bikes with no number plates. Instead, these may be observed **before** or **after** their off-roading activities, being unloaded or loaded into a van or pickup, or onto a trailer towed by a normal road vehicle. It may be possible to record the description and registration number of the carrying or towing vehicle, and hence for the police to identify the owner of the trail bike.

5. If the police can identify such unregistered trail bikes, they can not only issue a warning or seize the vehicle for driving without reasonable consideration and for causing annoyance, but can also charge the rider with driving a motor vehicle on a public highway unlicensed and probably uninsured.
6. When a warning is issued or a vehicle seized, the police would record the vehicle **and** driver concerned on the Police National Computer system. There will be no difficulty in maintaining a 12-month Black List of vehicles and drivers for this purpose, available to all police forces across the country. If a constable stops an offending vehicle, or if members of the public produce definitive evidence of offending vehicles, the police can quickly and easily find out if the vehicle or its driver has received a prior warning (possibly from another police force), or if the vehicle has been seized and released, and take action accordingly.
7. If a constable seizes a vehicle in a remote rural location, he will need to have the means laid on for removing it to a secure location, possibly using a firm of vehicle removal contractors. If several seized vehicles are involved, this may pose a serious logistical problem. The constable cannot merely lock the vehicle and take the keys, leaving the vehicle where it is, because the police are responsible for its safety. If the vehicle were vandalised, the police would be responsible for the damage, and would have to pay compensation to the owner.
8. There should be no problem in holding seized vehicles in a secure location, as this is regularly done by the Traffic Division of any police force.
9. If a vehicle is seized in a remote rural location, the police have no obligation to transport the driver or passengers to any convenient location. They have to make their own way home, if necessary on foot.
10. If the police receive definitive evidence from members of the public, and identify the name and address of the registered keeper of the vehicle, this has the advantage that they can act in their own time, even if it is done by a different police force. They will know in advance which vehicles have to be seized, and which merely require a warning. The location from which a vehicle has to be seized and removed will probably not be remote rural, and will probably be closer to the secure location to which the vehicle will be taken.
11. One great advantage of this new legislation is that the issuing of warnings and the subsequent seizure and removal of motor vehicles is entirely a matter for the police. There is no prosecution, and hence the Crown Prosecution Service and the Magistrates' Courts do not enter into it. The only circumstance in which a Magistrates' Court might be involved is in s.59(6), when a person ordered to stop under s.59(3)(a) fails to do so, and is then guilty of an offence.
12. Before anyone tries to invoke this new legislation for the first time by submitting definitive evidence to the police, they should first check with their local police authority just how they will interpret the legislation. Different police forces may interpret the same legislation in different ways. Hence any would-be observers are strongly advised to make sure that they and their local police force will make the same interpretation before they start.

David Gardiner

Note: This interpretation is based on my own reading of the new legislation, and on discussions with a very experienced constable of Thames Valley Police, who checked it with the TVP solicitor, and is to the best of my understanding of it. I am **not** a professional lawyer, and I give no warranty that my interpretation is correct.