



MONTSERRAT

## CHAPTER 8.14

# DERELICT MOTOR VEHICLES (DISPOSAL) ACT

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### DERELICT MOTOR VEHICLES (DISPOSAL) ACT

Act 15 of 1973 .. in force 16 January 1974 (S.R.O. 1/1974)

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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## CHAPTER 8.14

### DERELICT MOTOR VEHICLES (DISPOSAL) ACT

#### ARRANGEMENT OF SECTIONS

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## CHAPTER 8.14

### DERELICT MOTOR VEHICLES (DISPOSAL) ACT

*(Acts 15 of 1973 and 9 of 2011)*

AN ACT TO PROVIDE FOR THE REMOVAL AND DISPOSAL OF DERELICT, ABANDONED AND DISUSED MOTOR VEHICLES AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

#### Commencement

*[16 January 1974]*

#### Short title

1. This Act may be cited as the Derelict Motor Vehicles (Disposal) Act.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“**approved place**” means an enclosed garage or a place approved by the Physical Planning Officer;

“**Commissioner**” means the Commissioner of the Royal Montserrat Police Service, and includes the Superintendent and Deputy Commissioner and any Inspector of the said Service; *(Amended by Act 9 of 2011)*

“**occupier**”, in relation to land, means the person in actual possession or control thereof and includes the person entitled to possession and control; and in the case of land of which no person is currently in actual possession or control, the person in whom the fee simple thereof is vested shall be deemed to be entitled to possession or control unless he proves the contrary;

“**owner**”, means in relation to a vehicle which has been registered under the Road Traffic Act, the person in whose name the vehicle is registered:

Provided that, whenever the registered owner of a motor vehicle is absent from Montserrat the person in actual possession or control of the vehicle in Montserrat shall be deemed to be the owner thereof;

“**Physical Planning Officer**” means the Physical Planning Officer appointed under and for the purposes of the Physical Planning Act;

“**public place**” means any highway, street, road, bridge, lane, park or garden, any square, court, alley or passage, any wharf, pier, beach or foreshore, and the curtilage of any public building, whether or not any of the above is a thoroughfare; and includes any open space,

whether publicly or privately owned, to which the public has access either generally or conditionally;

“road” has the same meaning assigned to it by the Vehicles and Road Traffic Act;

“vehicle” includes motor vehicles, tractors, trailers, and the body, chassis, or other parts of a vehicle.

### **Power of Commissioner to require removal of abandoned or disused vehicles**

3. (1) When it appears to the Commissioner that a vehicle has been abandoned or disused or is in a dilapidated condition in or upon any road or public place, he may cause a notice in writing to be served on the owner of that vehicle or, where the owner of that vehicle is not known or cannot be traced, the Commissioner may cause the notice to be affixed to the vehicle, requiring that the vehicle be removed to an approved place within fourteen days from the date when the notice is so served or affixed:

Provided however that, where a vehicle has a valid current licence issued under the Road Traffic Act, if the owner cannot be served personally with a copy of the notice under the provisions of this subsection, in addition to affixing the notice to the vehicle, the Commissioner shall advertise notice of his intention to take action under the provisions of this Act with respect to the vehicle, in a newspaper circulating in Montserrat and over a local radio station.

(2) If a vehicle to which subsection (1) applies is not removed within the period of fourteen days or any extension thereof authorized by the Commissioner in any particular case, the Commissioner may cause the vehicle to be removed to a vehicle pound, to be established for the purpose by the Commissioner under the supervision and control of the Police Department, and kept there for twenty eight days during which period the Commissioner shall advertise, by not less than two advertisements of different dates in a newspaper circulating in Montserrat, as well as over a local radio station, his intention to dispose of the vehicle under this Act if it is not claimed and removed from the vehicle pound within the said period:

Provided that, if in the opinion of the Commissioner the vehicle has been abandoned for a period of three months or more and if it appears to him that the vehicle is of no further use to its owner, the Commissioner may, instead of removing the vehicle to a vehicle pound, deem it and all its equipment and articles as *bona vacantia* and deal with them accordingly.

(3) The owner of a vehicle removed to a vehicle pound under the provisions of this section may, within the period of twenty eight days specified in subsection (2), remove the vehicle therefrom upon payment to the Commissioner of the prescribed charge for the removal of the vehicle to the vehicle pound and any other charges levied under this Act.

(4) The owner of any vehicle not claimed and removed from the vehicle pound within the time specified in subsection (2) shall be deemed at



the expiration of such time to have abandoned all right and title to the said vehicle and to any articles in, upon or affixed to it, and the vehicle and all its equipment and articles shall be deemed to be *bona vacantia* and the Commissioner shall be entitled to deal with them in any manner whatsoever.

(5) No claim or proceedings or right of action whatsoever by the owner of any vehicle to which the provisions of this section apply shall lie against the Commissioner or against any person acting in good faith under the general or specific orders of the Commissioner with respect to the removal, impounding or disposal of a vehicle in accordance with the provisions of this Act.

### **Removal of abandoned vehicle from private property**

4. Upon request made by the occupier of any land the Commissioner may arrange for the removal and or disposal of any abandoned, dilapidated or disused vehicle found on the land.

### **Unauthorised use of land for storage of abandoned or disused vehicle**

5. (1) In any case in which any land is used as a place upon which to deposit in the open any abandoned or disused vehicle which is in a dilapidated state, and such use of the land has not been sanctioned by the Physical Planning Officer, the Commissioner may serve a notice upon the occupier of the land requiring that the vehicle be removed to an approved place within a period of fourteen days or such longer period as the Commissioner may specify, and if the occupier of the land does not comply with the requirements of the notice, the provisions of section 3 shall apply as if the vehicle had been found abandoned or disused in a public place. For the purpose of the application of section 3 in a case to which this subsection applies, the occupier of the land shall be deemed to be the owner of the vehicle unless he proves the contrary.

(2) In any case to which the provisions of subsection (1) apply and in which the occupier of the land concerned is not known or cannot be found, the Commissioner shall cause copies of the said notice to be affixed to the vehicle concerned and shall also cause a copy thereof to be affixed in a conspicuous place on the land. In addition thereto, the Commissioner shall advertise notice of his intention to take action under the provisions of this Act with respect to the vehicle, in a newspaper circulating in Montserrat and over a local radio station.

(3) The provisions of this section shall be in addition to and not in derogation of the provisions of the Physical Planning Act, or of any rules or regulations made thereunder, and the removal of any vehicle from any land under the provisions of this Act shall not prejudice or be a bar to any proceedings against the owner or occupier of the land in respect of any breach of the provisions of that Act or of such rules or regulations.

## Appeals

6. (1) Subject to the provisions of subsection (2), the owner of any vehicle aggrieved by the operation of section 3, 4 or 5 may appeal to an Appeals Tribunal against any notice served upon him or affixed to his vehicle by the Commissioner under the provisions of any of the said sections, within ten days of the date when the notice was served or affixed and the appeal shall be in the form of an enquiry.

(2) An appeal under the provisions of subsection (1) shall lie only upon the ground that the vehicle has not been abandoned or is not disused or dilapidated, or in a case to which the provisions of section 5 apply, that the vehicle is on land which has been authorised for the storage of disused vehicles under the provisions of the Physical Planning Act, or of rules or regulations made thereunder.

(3) The lodging of an appeal under the provisions of this section shall operate as a stay of all further action by the Commissioner for the removal and disposal of the vehicle concerned until such time as the appeal shall have been determined.

(4) For the purposes of this section there shall be an Appeals Tribunal appointed by the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*

(5) The decision of the Appeals Tribunal upon hearing the appeal shall be final.

## Act not to derogate from powers under other laws in respect of obstruction

7. Nothing in this Act shall be construed as being in derogation of any powers under the Road Traffic Act, or any regulations made thereunder, or any other law for the time being in force, relating to roads or vehicles, to bring any proceedings against any person who causes an unnecessary obstruction with any vehicle or for the removal of such obstruction.

## Fees etc. recoverable as a civil debt

8. All fees or other charges payable to the Commissioner under this Act or any expenses incurred by him in the removal or disposal of any derelict vehicle shall be recoverable from the owner of the vehicle by the Attorney General as a debt due to the Crown.

## Rules

9. The Governor acting on the advice of Cabinet may make rules generally for the purposes of this Act and for prescribing anything which is required to be prescribed, and, without derogating from the generality of the foregoing power, rules may provide—

- (a) scales of charges for the removal and disposal of vehicles which are removed and disposed of under the provisions of this Act; and
- (b) the procedure to be used for removal and disposal of vehicles.

*(Amended by Act 9 of 2011)*

### **Offences and penalty**

**10. (1)** Any person who unlawfully rescues or attempts to rescue any vehicle impounded or about to be impounded under the provisions of this Act shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of \$500.

**(2)** In this section the expression “**rescue**” shall have the same meaning as in section 16 of the Animals (Trespass and Pound) Act.

### **Special Fund**

**11. (1)** Notwithstanding the provisions of the Public Finance (Management and Accountability) Act, and the procedure laid down therein for the establishment of Special Funds, there shall be established for the purposes of this Act a Special Fund to be known as the Derelict Vehicles Removal Fund, hereinafter in this section referred to as “**the Special Fund**”.

**(2)** Into the Special Fund shall be paid such monies as the Legislative Assembly may from time to time appropriate for the purpose.  
*(Amended by Act 9 of 2011)*

**(3)** Into the Special Fund shall be paid all fees and other charges and all sums received by the Commissioner of Police with respect to the removal, impounding or disposal of derelict vehicles under the provisions of this Act.

**(4)** From the Special Fund there shall be paid all expenses relating to the removal, impounding and disposal of derelict vehicles.

**(5)** For the avoidance of doubt it is hereby declared that nothing in this section provided shall be deemed to excuse any person from the liability to pay the expenses of removal of any derelict vehicle or the fees or other charges payable under this Act or any part of such expenses, fees or other charges as aforesaid.



