

1st Edition - edited June 2026. Please check scalp.org.uk for updates.

Scottish Community & Activist Legal Project

Guide for Drivers

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If you have specific questions, or if you experience anything that is completely different to what is written in this Guide, please help us to keep it accurate by getting in touch:

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If asking a question keep it hypothetical and you can anonymise your experience if you are telling us about specific interactions with the police or courts.

Instead of writing 'I did / I'm planning this - what will the police do?', try writing, 'If somebody were to do this, what might the consequences be?'.

Introduction

This guide is intended for vehicle drivers who are driving as part of, or in support of, an action or protest in Scotland.

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Giving Details to the Police

When driving a vehicle, you are required to give the police your **name and address** if asked. Only these details are lawfully required: you can answer 'No Comment' to all other questions. Passengers are not required to give details.

You may also be asked to show a valid driving licence, vehicle insurance certificate, and MOT certificate (if the vehicle is over three years old). If you do not have these with you, you may nominate a police station to take these to within 7 days. You are not legally required to produce these upon demand. It may be useful to have all the personal details associated with insurance *etc.* up to date, as it may speed up the process of on-the-spot checking by police, and mean you can avoid having to report with information to the station later.

You are also required to give details to police if you are a suspect or a witness to a crime. If you are a suspect you can be made to stay with the officer at the scene for a "reasonable time" so that your details can be checked, but this would probably be no more than the few minutes necessary to do a check by radio, or by referring to any ID you volunteer (although there is no legal obligation to carry or show ID). If you are a suspect you may be invited to comment as to why the officer is suspicious of you. You are under no obligation whatsoever to give any further details and we advise you not to.

You should expect that any personal details you give to a police officer, including in what may appear to be an informal conversation, may be added to police intelligence databases. As such, it is recommended to only give what information you are required to give by law, otherwise answering 'no comment'.

It is an offence to use a mobile phone whilst driving.

Driving in Great Britain on a Non-GB Driving Licence

Generally you can use your ordinary non-GB licence for up to 12 months from the date you last entered Great Britain (Scotland, England, Wales). You should check the law for your specific situation [here](#).

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Driving Off-Road

Subject to the exceptions in s34 of the [Road Traffic Act 1988](#) it is an offence to drive a vehicle on land that is not part of a road. Exceptions include: parking within 15 yards of a road, in case of emergency or to prevent a fire and particular local byelaws.

Stop & Search of Vehicles

There is no general power to search a vehicle, however the police are permitted to do so under a range of other powers.

For example, Section 60 of the [Criminal Justice and Public Order Act \(1994\)](#) gives police additional powers to stop and search people and vehicles within a specified area for up to 24 hours in anticipation of violence. Once a Section 60 Order is in force, uniformed police officers of any rank can stop people and vehicles to search them for weapons or dangerous instruments (e.g., knives). No suspicion of that person or vehicle is required.

If the police want to search your vehicle ask 'under what power?' and be clear whether you are giving permission or just complying with a (claimed) requirement. Police may act as if your consent is not required to carry out a search.

Transporting People To Actions

When driving on a public road, the driver of the vehicle is responsible for making sure all passengers wear seatbelts.

Under the [Criminal Procedure \(Scotland\) Act 1995](#), any person who aids, abets, counsels, procures or incites any other person to commit an offence, is themselves liable to conviction as 'art and part'. This can include transporting someone to an action with the knowledge that they intend to commit an offence.

Allowing Others to Use Your Vehicle for an Action or Protest

The registered owner of a vehicle is required to tell the police who was driving it at a certain time. The driver, rather than the owner, risks liability. If you do not inform the police that someone else was driving your vehicle, you are liable.

Using a Hire Vehicle at an Action or Protest

Many rental companies operating in Scotland and the UK use a database called 'RISC' which is operated by the [British Vehicle Rental & Leasing Association \(BVRLA\)](#). This database provides companies with information concerning previous breaches in terms & conditions or 'inappropriate behaviour'. In the past, individuals have been blacklisted from multiple hire companies after Police Scotland informed the company that their vehicle had been associated with a protest or action.

RISC is subject to the Data Protection Act and you are entitled to request a copy of any information held about yourself. If the information held on you is inaccurate, you also have the right to appeal to be removed from the system by contacting the rental company directly.

Exceeding the Maximum Weight Limit for a Vehicle

There is a legal limit to the amount you can load onto any vehicle. If your vehicle is found to exceed its capacity, the police or [Driver & Vehicle Standards Agency DVSA](#) can prevent you from continuing with your journey and impose a fixed penalty.

In Scotland, you can be issued with a 'conditional offer'. If the offence shown on the offer is accepted, you have 28 days to pay the amount shown as a fixed penalty and the matter is closed. If you do not accept the offer, the matter will be passed to the procurator fiscal for consideration of court action.

The current penalties are:

- £100 for exceeding the maximum weight capacity by 5%-10%
- £200 for exceeding the maximum weight capacity by 10%-15%
- £300 for exceeding the maximum weight capacity by 15-30%

If you have exceeded the maximum weight capacity by over 30%, you may be issued a court summons.

Having a Vehicle Removed or Seized by The Police

The police can **remove** a vehicle if they decide it was: parked illegally, involved in a crime, driven in an antisocial manner, abandoned causing an obstruction or danger, or abandoned after an incident involving the police.

If your vehicle has been removed and is being kept at a Vehicle Recovery Operators premises, you can arrange collection of your vehicle immediately if you are aware of its location. To reclaim your vehicle you will need to go to the correct Vehicle Recovery Operators premises to prove your identity and your ownership of the vehicle and pay any statutory charges (cars and light vans: £190 removal charge and £25 per day storage).

You must bring with you:

1. Proof of identity (valid photo ID)
2. Proof of ownership (full vehicle registration document (V5C) in your name, together with proof of address to match the registered address)
3. Driving licence
4. MOT
5. Insurance certificate

If you want to get property from the removed vehicle, but not the vehicle itself, you need to bring proof that you're the vehicle's owner or registered keeper (a V5C or new keeper supplement V5C/2).

A vehicle can be **seized** if an officer has reasonable grounds to believe that the driver was uninsured or was not driving in accordance with their driving licence. If your vehicle has been seized for this reason the driver should have received a seizure notice. You are legally required to go to a police station within fourteen days of the date on the seizure notice or notice letter to reclaim your vehicle.

If the police remove or seize a hire vehicle they will notify the hire company who may then collect it.