STATUTORY RULES OF NORTHERN IRELAND

2016 No. 90

ROAD TRAFFIC AND VEHICLES

The Taxis Act (Northern Ireland) 2008 (Retention and Disposal of Seized Motor Vehicles, Equipment and Items) Regulations (Northern Ireland) 2016

Made - - - -	*1st March 2016*
Coming into operation	*31st May 2016*

The Department of Justice makes the following Regulations in exercise of the powers conferred on it by section 42 of the Taxis Act (Northern Ireland) 2008(**1**). These powers are now vested in the Department of Justice (**2**).

Citation and commencement

1. These Regulations may be cited as the Taxis Act (Northern Ireland) 2008 (Retention and Disposal of Seized Motor Vehicles, Equipment and Items) Regulations (Northern Ireland) 2016 and shall come into operation on 31 May 2016.

Interpretation

2. In these Regulations—

"the 2008 Act" means the Taxis Act (Northern Ireland) 2008;

"the 1994 Act" means the Vehicle Excise and Registration Act 1994(**3**);

"certificate of insurance" is to be construed in accordance with Article 92(4) of the 1981 Order;

"MAM" means maximum authorised mass as defined in regulation 2(1) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996(**4**);

"registration mark" means a registration mark as defined in section 23(1) of the 1994 Act;

"the register" means the register maintained by the Secretary of State under Part 2 of the 1994 Act;

(**1**) 2008 c. 4 (N.I.); section 42(1) was amended by paragraph 92 of Schedule 14 to S.I. 2010 No. 976.
(**2**) Paragraph 92 of Schedule 14 to the Northern Ireland Act 1998 Order 2010 (S.I. 2010/976) transferred the regulation making powers of the Secretary of State to the Department of Justice.
(**3**) 1994 c. 22.
(**4**) S.R. 1996 No. 542.

"relevant motor vehicle" means a motor vehicle which has been seized under section 41 of the 2008 Act;

"seizure notice" means a notice complying with regulation 5 or 6;

"valid licence" means a licence to drive a motor vehicle granted under Part II of the 1981 Order, a Community licence, an exchangeable licence or a Great Britain driving licence, and for this purpose the terms "Community licence" and "exchangeable licence" have the same meaning as given in Article 19D(**5**) of that Order;

"working days" shall be taken to exclude Saturdays, Sundays, Christmas Day and any day which, under the Banking and Financial Dealings Act 1971(**6**), is a bank holiday in Northern Ireland.

Retention and safe keeping of relevant motor vehicles

3.—(1) A constable or authorised officer may deliver a relevant motor vehicle into the custody of an identified person if—

(a) the identified person agrees to accept delivery; and

(b) a receipt is provided by the identified person to the constable or authorised officer to confirm that the identified person has taken safe custody of the vehicle.

(2) An "identified person" is a person who—

(a) is capable of accepting delivery of the vehicle; and

(b) has agreed arrangements with the Department for accepting custody of vehicles, including arrangements regarding security and access.

(3) The arrangements made by virtue of paragraph (2)(b) may include provision as to the payment of a sum to the identified person.

(4) While the relevant motor vehicle is in the custody of the identified person, that person shall be under a duty to take such steps as are reasonably necessary for its safe keeping until -

(a) it is released from that person's custody in accordance with regulation 7; or

(b) it has been disposed of under these Regulations.

Retention of equipment and items

4.—(1) Any equipment or item that has been seized and removed by a constable or authorised officer under section 38 or 41 of the 2008 Act may be retained for so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1) anything seized for the purposes of a criminal investigation may be retained—

(a) for use as evidence at a trial for an offence; or

(b) for forensic examination or for investigation in connection with an offence.

Giving of seizure notice in respect of a relevant motor vehicle

5.—(1) A constable or authorised officer, on seizing a relevant motor vehicle, shall give a seizure notice in accordance with this regulation to the driver of the vehicle being seized unless the circumstances make it impracticable to do so.

(**5**) Article 19D was inserted by Schedule 1 to S.I. 1991 No. 197 (N.I. 3) and amended by paragraph 12(2)(b) of Schedule 1 to SR 1996 No. 426, and by Article 35(b) of S.I. 2007/916 (N.I. 10).
(**6**) 1971 c. 80.

(2) The Department shall, as soon as it is able after the relevant motor vehicle has been taken into custody, take such steps as are reasonably practicable to give a copy of the seizure notice in accordance with this regulation to the owner of that vehicle, except where—

(a) the Department is satisfied that a seizure notice has already been given to the owner of the vehicle under paragraph (1), or

(b) the vehicle has been released from the custody of the constable, authorised officer, or identified person in accordance with these Regulations.

(3) A seizure notice shall, in respect of the relevant motor vehicle to which it relates, contain such of the following information as can be or could have been ascertained from an inspection of the vehicle, or has been ascertained from any other source, that is to say—

(a) the registration mark; and

(b) the make of the vehicle.

(4) A seizure notice shall, in respect of the relevant motor vehicle to which it relates, state—

(a) the place where the vehicle was seized;

(b) the place where it is now being kept;

(c) that the owner of the vehicle is required to make an application to the Department for the release of the vehicle on or before the date specified in the notice, being a date not less than 7 working days from the day when the notice is given to the owner;

(d) that, subject to regulation 7(3), a fee is payable under regulation 7 by the owner of the vehicle to the Department for an application for release, and that the vehicle may be retained until such a fee is paid;

(e) that unless the application is made on or before that date the Department intends to dispose of it;

(f) that, subject to regulation 7(3), charges are payable under regulation 7 by the owner of the vehicle to the Department in respect of the removal and retention of the vehicle, and that the vehicle may be retained until such charges are paid; and

(g) that the registered keeper or owner of the vehicle must either—

(i) produce at the address specified on the seizure notice proof of ownership of that vehicle, a valid certificate of insurance covering his use of that vehicle and a valid licence authorising him to drive that vehicle; or

(ii) nominate for this purpose a person who produces at the address specified on the seizure notice proof of ownership of the vehicle, a valid certificate of insurance covering that person's use of that vehicle and a valid licence authorising that person to drive that vehicle,

and that the vehicle may be retained until this requirement is satisfied.

(5) The copy of the seizure notice given under paragraph (2) shall be given—

(a) by delivering it to the person to whom it is directed;

(b) in respect of the owner—

(i) by leaving it at the address which is entered on the register as being the address of the owner; or

(ii) by sending it by registered post, addressed to the owner to the address which is entered on the register as being the address of the owner; or

(c) if the person is a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office, or sending it by registered post, addressed to the secretary or clerk of the body at that office.

Giving of seizure notice in respect of equipment and items

6.—(1) A constable or authorised officer, on seizing equipment or items under section 38 or 41 of the 2008 Act, shall serve notice in accordance with this regulation on any person who, to the knowledge of the constable or authorised person, was at the time of the seizure the owner of the equipment or items seized.

(2) A seizure notice under paragraph (1) shall state—

(a) where the equipment or items were seized;

(b) the place where they are now being kept;

(c) that, subject to the requirements of regulation 4, the owner of the equipment or items is required to make an application to the Department for their release on or before the date specified in the notice, being a date not less than 7 working days from the day when the notice is given;

(d) that unless the application is made on or before that date the Department intends to dispose of the equipment or items;

(e) that, subject to regulation 11(4), a fee is payable under regulation 11 by the owner of the equipment or items to the Department for an application for the release of the equipment or items, and that the equipment or items may be retained until such fee is paid to the Department; and

(f) that the owner of the equipment or items must either—

(i) produce at the address specified on the seizure notice satisfactory evidence of ownership of the equipment and items; or

(ii) nominate for this purpose a third person as an agent who produces at the address specified on the seizure notice satisfactory evidence of their own identity, address and authority to act on behalf of the principal and proof of the principal's ownership of the equipment and items,

and that the equipment or items may be retained until this requirement is satisfied.

Release of relevant motor vehicles

7.—(1) Subject to the provisions of these Regulations, where an application is made to the Department by the owner of the vehicle for the release of the relevant motor vehicle and—

(a) the Department or the identified person is satisfied that the requirements of regulation 5(4)(g) have been met, and

(b) such charges in respect of its removal and retention and any fee in respect of an application to release as are provided for in regulation 8 have been paid,

the Department or the identified person shall permit the owner or their agent to remove the vehicle from their custody.

(2) In determining whether a person who claims to be the owner of the relevant motor vehicle is in fact the owner, the Department or the identified person shall refer to the register.

(3) A person who would otherwise be liable to pay a charge for removal and retention or fee for an application to release under paragraph (1) shall not be liable to pay if they did not know that the vehicle was being used to provide a taxi service, had not consented to its being so used and could not, by the taking of reasonable steps, have prevented it from being so used.