STATUTORY RULES OF NORTHERN IRELAND

2012 No. 19

ROAD TRAFFIC AND VEHICLES

The Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012

Made - - - -	*26th January 2012*
Coming into operation	*23rd April 2012*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Article 13 of, and Schedule 1 to, the Road Traffic (Northern Ireland) Order 2007 [F1].

Annotations:

F1 S.I
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2007 No. 916
(N.I. 10)

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Road Traffic (Immobilisation, Removal and Disposal of Vehicles) Regulations (Northern Ireland) 2012 and shall come into operation on 23rd April 2012.

Interpretation

2. In these Regulations—

"identified person" has the meaning given in regulation 10(2);

"immobilisation notice" means a notice given in accordance with regulation 4(2);

"MAM" means maximum authorised mass as defined in regulation 2(1) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 [F2];

"owner" means, in relation to a vehicle—

(a) the person in whose name the vehicle is then registered under the Vehicle Excise and Registration Act 1994 [F3]; or

(b) if the vehicle is not so registered, the person appearing to the authorised person to own that vehicle;

"release fee" has the meaning given by regulation 4(7).

Annotations:

F2 S.R. 1996 No.542

F3 1994 c.22

Application

3.—(1) These Regulations apply with respect to any case where the driving of a vehicle has been prohibited under—

(a) Article 84 of the Road Traffic (Northern Ireland) Order 1981 [F4] (power in certain cases to prohibit driving of foreign vehicles);

(b) Article 77 or 79 of the Road Traffic (Northern Ireland Order 1995 [F5] (powers to prohibit driving of unfit or overloaded vehicles); or

(c) Article 91E of the Road Traffic Offenders (Northern Ireland) Order 1996 [F6] (power to prohibit driving of vehicle on failure to make payment in compliance with financial penalty deposit requirement).

(2) These Regulations do not apply in relation to a vehicle if a current disabled person's badge is displayed on that vehicle.

(3) In this regulation, a current disabled person's badge includes a recognised badge within the meaning given by regulation 3A of the Disabled Persons (Badges for Motor Vehicles) Regulations (Northern Ireland) 1993 [F7].

Annotations:

F4 S.I. 1981/154 (N.I. 1)

F5 S.I. 1995/2994 (N.I. 18)

F6 S.I. 1996/ 1320 (N.I. 10); Article 91E is inserted by Article 12 of S.I. 2007/916 (N.I. 10)

F7 S.R. 1993 No.202 ; Article 3A was inserted by regulation 2(2) of S.R. 2010 No.45

PART 2

Immobilisation of Vehicles

Power to immobilise vehicles

4.—(1) An authorised person or a person acting under the direction of the authorised person may, in relation to any vehicle in a case where these Regulations apply—

(a) fix an immobilisation device to the vehicle; and

(b) move the vehicle, or direct the driver or the person appearing to be in charge of the vehicle to move the vehicle, for the purpose of enabling an immobilisation device to be fitted to it.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with these Regulations, the person fixing the device must also fix to the vehicle a notice ("an immobilisation notice")—

(a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;

(b) specifying the steps to be taken to secure its release, including—

(i) how payment of any release fee should be made; and

(ii) the evidence to be produced to show that the prohibition under which the driving of the vehicle was prohibited has been removed; and

(c) giving any other relevant information, including the consequences of not securing release of the vehicle.

(3) A vehicle to which an immobilisation device has been fixed in accordance with these Regulations—

(a) may only be released from the device by or under the direction of an authorised person; but

(b) subject to sub-paragraph (a), must be released from the device if the first and second requirements specified in paragraphs (4) and (5) are met.

(4) The first requirement is that a charge of £80 in respect of the release is paid in any manner specified in the immobilisation notice.

(5) The second requirement is that, in accordance with instructions specified in the immobilisation notice, there is produced—

(a) in the case of a prohibition issued under Article 84 of the Road Traffic (Northern Ireland) Order 1981 (power in certain cases to prohibit driving of foreign vehicles), the notice referred to in Article 85(2) of that Order (provisions supplementary to Article 84) or evidence that that prohibition has expired;

(b) in the case of a prohibition issued under Article 77 or 79 of the Road Traffic (Northern Ireland) Order 1995 (power to prohibit driving of unfit or overloaded vehicles), the notice referred to in Article 81(7) of that Order (removal of prohibitions); and

(c) in the case of a prohibition issued under Article 91E of the Road Traffic Offenders (Northern Ireland) Order 1996 (prohibition on driving on failure to make a payment), evidence that one of the events referred to in Article 91E(4) of that Order has occurred.

(6) An immobilisation notice may not be removed or interfered with except by an authorised person or a person acting on the authority of an authorised person.

(7) In this regulation, the "release fee" means the charge referred to in paragraph (4).

Offence of failing to move vehicle

5. A person who fails to comply within a reasonable time with a direction under regulation 4(1)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offence of removing or interfering with immobilisation notice

6. A person, other than an authorised person or a person acting on the authority of an authorised person, who removes or interferes with an immobilisation notice is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Offence of removing or interfering with immobilisation device, etc.

7. A person, other than an authorised person or a person acting under the direction of an authorised person, who removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with these Regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

False or misleading statements, etc.

8.—(1) Where—

(a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with these Regulations;

(b) the declaration is that the prohibition has been removed; and

(c) the declaration is to the persons's knowledge either false or in any material respect misleading, that person is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable—

(a) on summary conviction, **[**F8to a fine not exceeding the statutory maximum**]** ; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

Annotations:

F8 Words in
reg. 8(2)(a)
substituted (23.4.2012) by
The Road Traffic (Immobilisation, Removal and Disposal of Vehicles) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/146)
,
regs. 1
,
2(2)

PART 3

Removal and Disposal of Vehicles

Power to remove vehicles

9.—(1) Where any of the conditions specified in paragraph (2) are met, an authorised person, or a person acting under the direction of an authorised person, may remove the vehicle or direct the driver or the person appearing to be in charge of the vehicle to remove the vehicle.

(2) The conditions are that the authorised person considers that the vehicle should be removed—

(a) for the safety of traffic, the vehicle, its occupants or its load;

(b) because there is insufficient space for the vehicle to remain at the location at which the vehicle was inspected; or

(c) because it appears to the authorised person that the vehicle has been abandoned.

Delivery of vehicles

10.—(1) An authorised person, or a person acting under the direction of an authorised person, may deliver a vehicle removed under regulation 9, or direct it to be delivered, 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 authorised person, or the person acting under the direction of an authorised person, 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.

Notice of removal of vehicle

11.—(1) Subject to paragraph (3), where a vehicle has been removed and delivered into the custody of an identified person under regulation 10, the authorised person must provide a notice to the person referred to in paragraph (2) specifying—

(a) the statutory power under which the vehicle has been removed;

(b) the particulars of the place to which the vehicle has been removed;

(c) the identity of the person to whom the vehicle has been delivered;

(d) the steps to be taken to reclaim the vehicle, including

(i) how payment of any release fee should be made; and

(ii) the evidence to be produced to show that the prohibition under which the driving of the vehicle was prohibited has been removed or has expired;

(e) the steps to be taken, in accordance with regulation 20, in the event of a dispute; and

(f) any other relevant information, including the consequences of not reclaiming the vehicle.

(2) The notice shall be provided by the authorised person to the person who was the driver of the vehicle when the driving of the vehicle was prohibited.