STATUTORY RULES OF NORTHERN IRELAND

2008 No. 495

CRIMINAL LAW

The Criminal Justice (Northern Ireland) Order 2008 (Retention and Disposal of Seized Motor Vehicles) Regulations (Northern Ireland) 2008

Made - - - -	*11th December 2008*
Laid before Parliament	*16th December 2008*
Coming into operation-	*6th January 2009*

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by Article 66 of the Criminal Justice (Northern Ireland) Order 2008(**1**).

Citation and commencement

1. These Regulations may be cited as the Criminal Justice (Northern Ireland) Order 2008 (Retention and Disposal of Seized Motor Vehicles) Regulations (Northern Ireland) 2008 and shall come into operation on 6 January 2009.

Interpretation

2. In these Regulations—

"the 1994 Act" means the Vehicle Excise and Registration Act 1994(**2**);

"the 2008 Order" means the Criminal Justice (Northern Ireland) Order 2008;

"authorised person" means a constable or other such person authorised by the Chief Constable under regulation 3(1);

"laden" means that the vehicle is carrying a load;

"load" means anything other than—

(a) The body and all parts of the vehicle which are necessary to or ordinarily used with the vehicle when working on a road;

(b) Any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle;

(**1**) S.I. 2008.1216 (N.I. 1)
(**2**) 1994 c.22

(c) The driver, any passengers and their personal effects;

(d) A crane, works truck, as defined in regulation 2(1) of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(**3**), or other special appliance or apparatus which is a permanent or essentially permanent fixture of the vehicle; and

(e) Any containers or other equipment intended or adapted for the purpose of holding or carrying a load by the vehicle;

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

"NI registration mark" means a registration mark issued in relation to a vehicle under the 1994 Act;

"off road" means that no part of the vehicle is in contact with the road;

"on road" means that any part of the vehicle is in contact with the road;

"owner" includes—

(a) The person by whom, according to the records maintained by the Secretary of State in connection with functions exercisable by him by virtue of the 1994 Act, the vehicle is kept and used;

(b) In relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, the person entitled to possession of the vehicle under the agreement;

"relevant motor vehicle" means a motor vehicle which has been seized and removed under Article 65(3)(b) of the 2008 Order;

"road" includes a public road and any street, carriageway, highway or roadway to which the public has access;

"seizure notice" means a notice complying with regulation 4;

"specified information", in relation to a vehicle, means 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) In the case of a vehicle which carries a NI registration mark, or a mark indicating registration in a place outside Northern Ireland, particulars of that mark; and

(b) The make of the vehicle;

"substantially damaged" means such damage to a vehicle that in the reasonable opinion of a constable it cannot be driven safely on the road;

"two wheeled vehicle" means a mechanically propelled vehicle constructed or adapted to have two wheels or less and the MAM of which does not exceed 3.5 tonnes;

"unladen" means that the vehicle is not carrying a load;

"working days" shall be taken to exclude Saturdays, Sundays, Christmas Day and any day which, under the Banking and Financial Dealings Act 1971(**5**) is a bank holiday in Northern Ireland.

Retention and safe keeping of motor vehicles

3.—(1) A relevant motor vehicle shall be passed into and remain in the custody of a constable or other person authorised under this regulation by the Chief Constable ("the authorised person") until—

(**3**) S.R. 1999/454 to which there are amendments not relevant to these Regulations
(**4**) S.R. 1996/542 to which there are amendments not relevant to these Regulations
(**5**) 1971 c. 80

(a) The authorised person permits it to be removed from his custody by a person appearing to him to be the owner of the vehicle; or

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

(2) While the vehicle is in the custody of the authorised person, the authorised person shall be under a duty to take such steps as are reasonably necessary for its safe keeping.

Giving of seizure notice

4.—(1) A constable, on seizing a vehicle under Article 65 of the 2008 Order, shall give a seizure notice in accordance with this regulation to the driver of the vehicle being seized unless the circumstances make it impracticable for him to do so.

(2) The authorised person shall, as soon as he is able after a relevant motor vehicle has been taken into his custody, take such steps as are reasonably practicable to give a seizure notice to the person who is or appears to be the owner of that vehicle, except where the vehicle has been released from their custody in accordance with these Regulations.

(3) A seizure notice required to be given under these Regulations shall comply with, and be given in accordance with, the following provisions of this regulation.

(4) A seizure notice shall, in respect of the vehicle to which it relates, contain the specified information and shall state—

(a) The place where the vehicle was seized;

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

(c) That the person to whom the notice is directed is required to claim the vehicle from the authorised person 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 him;

(d) That unless the vehicle is claimed on or before that date the authorised person intends to dispose of it;

(e) That, subject to regulation 5(3), charges are payable under these Regulations by the owner of the vehicle in respect of the removal and retention of the vehicle, and that the vehicle may be retained until such charges are paid.

(5) The seizure notice shall be given—

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

(b) By leaving it at his usual or last known address;

(c) By sending it in by the registered post service, addressed to him at his usual or last known address; or

(d) 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 the registered post service, addressed to the secretary or clerk of the body at that office.

Release of vehicles

5.—(1) Subject to the provisions of these Regulations, if, before a relevant motor vehicle which is disposed of by an authorised person, a person—

(a) Satisfies the authorised person that he is the owner of that vehicle; and

(b) Pays to the authorised person such a charge in respect of its seizure and retention as is provided for in regulation 6, the authorised person shall permit him to remove the vehicle from his custody.