STATUTORY RULES OF NORTHERN IRELAND

2008 No. 494

ROAD TRAFFIC AND VEHICLES

The Road Traffic (Northern Ireland) Order 1981 (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 180C of the Road Traffic (Northern Ireland) Order 1981(**1**).

Citation and commencement

1. These Regulations may be cited as the Road Traffic (Northern Ireland) Order 1981 (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 1981 Order" means the Road Traffic (Northern Ireland) Order 1981;

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

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

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

"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;

(**1**) S.I. 1981/154 (N.I. 1); Article 180D was inserted by S.I. 2007 No. 916 (N.I. 10), Article 21
(**2**) 1994 c.22

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

(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—

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

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

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

"registered keeper", in relation to a motor vehicle, means the person in whose name the vehicle is registered under the 1994 Act;

"relevant motor vehicle" means a motor vehicle which has been seized and removed under Article 180B of the 1981 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;

"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;

"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 of the 1981 Order;

"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.

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

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—

(a) the authorised person permits it to be removed from his custody by a person appearing to him to be the registered keeper or 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 180B of the 1981 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 in accordance with this regulation to the person who is the registered keeper and to the owner, where that appears to be someone different, of that vehicle, except where

(a) the authorised person is satisfied that a seizure notice has already been given to the registered keeper and to the owner, where that appears to be someone different, of the vehicle under paragraph (1); or

(b) the vehicle has been released from his custody in accordance with these Regulations.

(3) A seizure notice shall, in respect of the 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) 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.

(4) A seizure notice shall, in respect of the 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 registered keeper or owner of the vehicle 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 the registered keeper or owner as the case may be;

(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(5), the charges are payable under these Regulations by the registered keeper, owner or driver of the vehicle in respect of the seizure and retention of the vehicle, and that the vehicle may be retained until such charges are paid; and

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

(i) produce at a specified police station 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 third person who produces at a specified police station 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 seizure notice shall be given—

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

(b) in respect of the registered keeper—

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

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

(c) in respect of the owner—

(i) by leaving it at his usual or last known address; or

(ii) by sending it by the registered post service, addressed to the owner 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 registered keeper or the owner of that vehicle;

(b) pays to the authorised person such a charge in respect of its seizure and retention as is provided for in regulation 6; and

(c) produces at a police station specified in the seizure notice a valid certificate of insurance covering his use of that vehicle and a valid licence authorising him to drive the vehicle,

the authorised person shall permit him to remove the vehicle from his custody.

(2) Where a person satisfies paragraph (1)(a) and (b) but cannot satisfy paragraph (1)(c), and nominates for this purpose a third person who produces a valid certificate of insurance covering that person's use of that vehicle and a valid driving licence authorising that person to drive that vehicle, the authorised person shall permit that person to remove the vehicle from his custody.

(3) In determining whether he is satisfied that a person who claims to be the owner of a relevant motor vehicle is in fact the owner, an authorised person may consider such documentary evidence as that person may supply them.

(4) In determining whether he is satisfied that a person who claims to be the registered keeper of a relevant motor vehicle is in fact the relevant keeper, an authorised person shall refer to the register.

(5) A person who would otherwise be liable to pay a charge under paragraph (1) shall not be liable to pay if—

(a) he was not driving the vehicle at the time it was seized under Article 180B of the 1981 Order; and

(b) he did not know that the vehicle was being driven at that time, had not consented to its being driven and could not, by the taking of reasonable steps, have prevented it from being driven.