STATUTORY RULES OF NORTHERN IRELAND

2006 No. 243

UNAUTHORISED ENCAMPMENTS

The Unauthorised Encampments (Retention and Disposal of Vehicles) Regulations (Northern Ireland) 2006

Made - - - -	*5th June 2006*
Coming into operation	*19th July 2006*

The Department for Social Development makes the following Regulations in exercise of the power conferred by Article 9(2) of the Unauthorised Encampments (Northern Ireland) Order 2005(**1**).

Citation and commencement

1. These Regulations may be cited as the Unauthorised Encampments (Retention and Disposal of Vehicles) Regulations (Northern Ireland) 2006 and shall come into operation on 19th July 2006.

Application and interpretation

2.—(1) These Regulations apply to vehicles which have been seized and removed by a police constable under Article 4 or 7(1) of the 2005 Order.

(2) In these Regulations—

"the 2005 Order" means the Unauthorised Encampments (Northern Ireland) Order 2005;

"the authority" means a police officer or other person authorised by the district commander of the police under regulation 3(1);

"N.I. registration mark" means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994(**2**);

"owner" includes—

(a) the person by whom, according to the records maintained by the Secretary of State for Transport in connection with any function exercisable by him by virtue of the Vehicle Excise and Registration Act 1994, the vehicle is kept and used;

(b) 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;

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

(**1**) S.I.2005/1961 (N.I. 11)
(**2**) 1994 c. 22

"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 N.I. registration mark, or a mark indicating registration in a place outside Northern Ireland, particulars of that mark; and

(b) the make of the vehicle.

Retention and safe keeping of vehicles

3.—(1) After a vehicle has been seized and removed under Article 4 or 7(1) of the 2005 Order, it shall be passed into and remain in the custody of a police officer or other person authorised under this regulation by the district commander of the police district in which the vehicle was seized ("the authority") until—

(a) the authority permit it to be removed from their custody by a person appearing to them to be the person from whom the vehicle was seized or the owner of the vehicle; or

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

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

Service of removal notice

4.—(1) The authority shall, as soon as they are able after the vehicle has been taken into their custody, take such steps as are practicable to serve a removal notice on the person from whom the vehicle was seized, except where the vehicle has been removed from their custody under regulation 5.

(2) A removal notice required to be served under this regulation or under regulation 6(3) shall comply with, and shall be served in accordance with, the following provisions of this regulation.

(3) The removal 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 authority on or before the date specified in the notice, being a date not less than 21 days from the day when the notice is served on him;

(d) that unless the vehicle is claimed on or before that date the authority intend to destroy or dispose of it;

(e) that charges are payable under these Regulations by the person from whom the vehicle was seized in respect of the removal and retention of the vehicle, and that the vehicle may be retained until such charges are paid.

Removal of vehicles from custody

5.—(1) Subject to Article 9(3) and (5) of the 2005 Order and the following provisions of these Regulations, if at any time a person satisfies the authority that he is the person from whom the vehicle was seized the authority shall permit him to remove the vehicle from their custody.

(2) Paragraph (1) does not—

(a) impose a duty on the authority where they reasonably believe that the person referred to is not the owner of the vehicle or authorised by the owner to remove the vehicle; or

(b) prevent the authority, in those circumstances, from returning the vehicle to its owner.

Disposal and destruction of vehicles

6.—(1) Where the authority have been unable to serve a removal notice on the person from whom the vehicle was seized or, following the service of a removal notice, the vehicle has not been removed from their custody under these Regulations, the authority may dispose of or destroy the vehicle in accordance with the following provisions of this regulation.

(2) If the authority are satisfied that the person on whom they have served or attempted to serve a removal notice is the owner of the vehicle, they may dispose of or destroy the vehicle at any time, subject to paragraph (5).

(3) Where the authority are not so satisfied, they may, after taking steps under paragraph (4) to find a person who may be the owner of the vehicle and any other steps for that purpose which appear to them to be practicable, in such manner as they think fit dispose of or destroy the vehicle at any time, subject to paragraph (5), if—

(a) they fail to find such a person, allowing a reasonable time for any person or body from whom they have requested information to respond to the request; or

(b) they find such a person but he fails to comply with a removal notice served on him under this paragraph but complying with, and served in accordance with, regulation 4; or

(c) they find such a person but he is a person on whom the authority have already served or attempted to serve a removal notice under regulation 4.

(4) The steps to be taken under this paragraph to find a person who may be the owner of the vehicle shall be such of the following as are applicable to the vehicle—

(a) if the vehicle carries a N.I. registration mark—

(i) the authority shall ascertain from the records maintained by the Secretary of State for Transport in connection with any functions exercisable by him by virtue of the Vehicle Excise and Registration Act 1994 the name and address of the person by whom the vehicle is kept and used; and

(ii) they shall give, where practicable, the specified information to a relevant agency and shall enquire of them whether they can make any enquiries to find the owner of the vehicle;

(b) if the vehicle carries a mark indicating registration in Great Britain, the authority shall give the specified information and a description of the place where the vehicle was seized to the Secretary of State for Transport and, where practicable, the specified information to a relevant agency and shall enquire of them whether they can make any enquiries to find the owner of the vehicle;

(c) if the vehicle carries a registration mark other than the one mentioned in sub-paragraphs (a) and (b), the authority shall, where practicable, give the specified information to a relevant agency and shall enquire of it whether it can make enquiries to find the owner of the vehicle.

(5) The authority may not destroy or dispose of the vehicle under this regulation —

(a) during the period of 3 months starting with the date on which the vehicle was seized;

(b) if the period in sub-paragraph (a) has expired, until after the date specified by virtue of regulation 4(3)(c); or

(c) if not otherwise covered by sub-paragraph (a) or (b), during the period of 7 days starting with the date on which the vehicle is claimed under regulation 5.

(6) In this regulation "relevant agency" means such agency maintaining records of hire purchase agreements about vehicles as the authority considers appropriate.