

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*

ARRANGEMENT OF REGULATIONS

PART 1

Preliminary

1. Citation and commencement
2. Interpretation
3. Application

PART 2

Immobilisation of Vehicles

4. Power to immobilise vehicles
5. Offence of failing to move vehicle
6. Offence of removing or interfering with immobilisation notice
7. Offence of removing or interfering with immobilisation device, etc.
8. False or misleading statements, etc.

PART 3

Removal and Disposal of Vehicles

9. Power to remove vehicles
10. Delivery of vehicles
11. Notice of removal of vehicle
12. Taking possession of a vehicle
13. Compensation
14. Power to dispose, etc., of vehicles
15. Charges in relation to the seizure and retention of a motor vehicle
16. Charges in relation to the disposal of vehicles
17. Recovery of prescribed charges
18. Offences of failing to remove or deliver vehicles
19. False or misleading statements, etc.

PART 4
General

- 20. Disputes
- 21. Application of Road Traffic Offenders (Northern Ireland) Order 1996

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(a).

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 (b);

“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(c); 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).

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(d) (power in certain cases to prohibit driving of foreign vehicles);
- (b) Article 77 or 79 of the Road Traffic (Northern Ireland) Order 1995(e) (powers to prohibit driving of unfit or overloaded vehicles); or
- (c) Article 91E of the Road Traffic Offenders (Northern Ireland) Order 1996(f) (power to prohibit driving of vehicle on failure to make payment in compliance with financial penalty deposit requirement).

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

(b) S.R. 1996 No.542

(c) 1994 c.22

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

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

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

(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(a).

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

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

(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, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

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.

(3) If it is not reasonably practicable to give the notice to the person referred to in paragraph (2), then the authorised person shall take reasonable steps to locate the owner of the vehicle and to give the notice to the owner in writing by post.

Taking possession of a vehicle

12. A person (“the claimant”) may take possession of the vehicle if the claimant—

- (a) claims it before it is disposed of;
- (b) claims it not more than three months from the date on which the vehicle was removed or the direction to remove it was given;
- (c) produces evidence to the satisfaction of the authorised person that the claimant—
 - (i) is either the owner of the vehicle; or
 - (ii) was the person in charge of the vehicle at the time it was removed or was directed to be removed;

- (d) pays the charges specified in Tables 1 and 2 in regulation 15 for the release, removal and retention of the vehicle, as applicable; and
- (e) produces such evidence as is required by regulation 4(5).

Compensation

- 13.—(1) An amount calculated in accordance with paragraph (2) may be paid to a person if—
- (a) he claims after the vehicle’s disposal to be or to have been its owner or to have been the person in charge of the vehicle when it was removed; and
 - (b) the claim is made within twelve months of the date on which the vehicle was removed or the direction to remove the vehicle was given.

(2) The amount payable under paragraph (1) shall be calculated by deducting from any proceeds of sale the charges specified in the Tables in regulations 15 and 16 in respect of the release, removal, retention and disposal of the vehicle, as applicable.

Power to dispose, etc., of vehicles

14. The person into whose custody the vehicle is delivered pursuant to regulation 10 may dispose, sell or destroy the vehicle as that person sees fit if the vehicle has not been claimed in accordance with regulation 12 within three months from the date on which the vehicle was removed or the direction to remove the vehicle was given.

Charges in relation to the seizure and retention of a motor vehicle

- 15.—(1) The charge payable under regulation 12(d) shall be—
- (a) the amount payable for the removal of the vehicle as set out in paragraph (2); and
 - (b) the amount payable for the retention of the vehicle as set out in paragraph (3).

(2) The amount payable for the removal of the vehicle shall depend upon the condition of the vehicle, the type of vehicle and whether it is on road or off road as set out in column 1 of Table 1 and shall be the charge specified in relation to that vehicle in columns 2 to 5 of that Table, the particular charge to be determined by reference to the MAM of the vehicle as described in row 1 of that Table and, for vehicles exceeding 7.5 tonnes MAM and not falling within row 2, whether the vehicle is laden or unladen.

Table 1

<i>Vehicle position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes</i>	<i>Vehicle exceeding 7.5 tonnes MAM but less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
Vehicle on road, upright and not substantially damaged or any two wheeled vehicle whatever its condition or position on or off road	£150	£200	£350	£350
Vehicle excluding a two wheeled vehicle, on road but either not upright or substantially	£250	£650	Unladen—£2000	Unladen—£3000
			Laden—£3000	Laden—£4500

damaged or both				
Vehicle excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£650	Unladen—£1000	Unladen—£1500
			Laden—£1500	Laden—£2000
Vehicle excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£300	£850	Unladen—£3000	Unladen—£4500
			Laden—£4500	Laden—£6000

(3) The amount payable for the retention of the vehicle, for each period of 24 hours or a part thereof during which the vehicle is in the custody of the authority, with regards to vehicles set out in row 1 of Table 2, shall be the charges specified in relation to those vehicles in row 2 of that table.

Table 2

<i>Two wheeled vehicle</i>	<i>Vehicle, not including a two wheeled vehicle, equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
£10	£20	£25	£30	£35

(4) For the purposes of this regulation, the MAM of a vehicle includes the MAM of any trailer attached to that vehicle.

(5) For the purpose of paragraph (2), a vehicle will only be considered upright if all parts of the vehicle are upright.

(6) For the purposes of paragraph (3), each period of 24 hours shall be reckoned from noon on the first day after removal during which the place at which the vehicle is stored is open for the claiming of vehicles before noon.

Charges in relation to the disposal of vehicles

16. The sum for determining the charges recoverable for the disposal of vehicles shall be in respect of vehicles set out in row 1 of the Table the sum specified in relation to those vehicles in row 2 of that Table.

Table

	1	2	3	4	5
1	<i>Two wheeled vehicle</i>	<i>Vehicle, not including a two wheeled vehicle, equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
2	£50	£75	£100	£125	£150

Recovery of prescribed charges

17. Whether or not a claim is made under regulation 12 or 13—

- (a) the Department; or
- (b) a person into whose custody the vehicle is delivered in accordance with regulation 10

may recover from the vehicle's owner or the person in charge of the vehicle the charges specified in the Tables in regulations 15 and 16 in respect of the release, removal, retention and disposal of the vehicle, as applicable.

Offences of failing to remove or deliver vehicles

18. A person who fails to comply within a reasonable time with a direction under regulation 9(1) or 10(1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

False or misleading statements, etc.

19.—(1) Where—

- (a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of an identified person;
 - (b) the declaration is that the prohibition has been removed; and
 - (c) the declaration is to the person'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, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

PART 4

General

Disputes

20.—(1) A person may apply to the court of summary jurisdiction on the grounds that the authorised person, or persons acting under his direction, did not comply with any of the requirements of regulation 4(1), 9, 10(1), 11, 12, or 13 ("the specified requirements").

(2) If the appropriate court of summary jurisdiction finds that an authorised person, or person acting under his direction did not comply with any of the specified requirements, it may order the Department to pay a sum to the person applying to the court to reflect any financial loss directly attributable to that failure to comply.

Application of Road Traffic Offenders (Northern Ireland) Order 1996

21. The following provisions of the Road Traffic Offenders (Northern Ireland) Order 1996 shall apply to the offences created by these Regulations—

- (a) Article 5 (requirement of warning etc. of prosecutions for certain offences);
- (b) Article 10 (time within which summary proceedings for certain offences must be commenced);
- (c) Article 14 (evidence by certificate as to driver, user or owner); and
- (d) Article 15 (proof in summary proceedings, of identity of driver of vehicle).

Sealed with the Official Seal of the Department of the Environment on 26th January 2012



Deirdre Kenny
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the immobilisation, removal and disposal of certain vehicles which have been prohibited from being driven.

Regulation 3 provides for the application of the Regulations. They apply under powers to prohibit—

- (a) the driving of foreign goods vehicles and foreign public service vehicles;
- (b) the driving of unfit or overloaded vehicles; and
- (c) the driving of vehicles on failure to make a payment in compliance with a financial penalty deposit requirement.

Regulation 4 provides that an authorised person or person acting under the direction of an authorised person may fix an immobilisation device to a vehicle to which the Regulations apply, and move the vehicle, or direct it to be moved for the purposes of fitting the device. Authorised persons are defined in paragraph 10 of Schedule 1 of the Road Traffic (Northern Ireland) Order 2007. Where an immobilisation device has been fixed, a notice must be fixed to the vehicle specifying certain matters, including the steps required to secure the release of the vehicle (regulation 4(2)). Paragraphs (3) to (5) of regulation 4 specify the steps required to secure release of an immobilisation device. These include payment of an £80 fee.

Regulations 5 to 8 provide for certain offences in connection with immobilisation, namely failing to comply within a reasonable time with a direction to remove the vehicle (regulation 5); removing or interfering with an immobilisation notice (regulation 6); removing or attempting to remove an immobilisation device (regulation 7); or making false or misleading statements with a view to securing the release of a vehicle from an immobilisation device (regulation 8).

Regulations 9 to 11 provide for the removal of a vehicle and the notice which must be provided in respect of such a removal which must include, among other things, details of the steps a person must take to reclaim the vehicle. Regulation 12 sets out those steps. Regulation 13, together with the tables in regulations 15 and 16 sets out the manner of calculating the amount of compensation payable to the owner of the vehicle if it is claimed after being disposed of. In accordance with regulation 14, the vehicle may be disposed of, sold or destroyed if it is not claimed within three months from the date on which the vehicle was removed or the direction to remove the vehicle was given. The Department of the Environment or the person into whose custody the vehicle is delivered may recover charges in accordance with regulation 17 and the tables in regulations 15 and 16 whether or not the vehicle is reclaimed or a claim is made under regulation 14 following its disposal. These include charges for the release, removal, custody and disposal of the vehicle.

Regulations 18 and 19 specify the offences in respect of failing to comply with a direction to remove or deliver a vehicle and in respect of false or misleading statements. Disputes are dealt with in accordance with regulation 20. Regulation 21 applies certain provisions of the Road Traffic Offenders (Northern Ireland) Order 1996 in respect of the offences created by the Regulations.

The Department of the Environment has produced an Explanatory Memorandum and a Regulatory Impact Assessment, showing the effect these Regulations will have on costs for the business and voluntary sectors. The documents are available from the Road Safety and Vehicle Regulation Division, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB or may be accessed via the Office of Public Sector Information website at www.legislation.gov.uk/nisr

© Crown copyright 2012

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

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

£5.75

N5203 02/2012 425203T 19585

ISBN 978-0-337-98651-2



9 780337 986512