

The Road Traffic (2007 Order)

(Commencement No. 4 and Amendment) Order (Northern Ireland) 2008

Made 4th June 2008

Commencement date 9 June 2008

Amendment to the Road Traffic (Northern Ireland) Order 2007

3.—(1) The Order is amended in accordance with paragraphs (2) to (5).

(2) In Article 21 (power to seize etc. vehicles driven without insurance) for “Article 180B” substitute “Article 180A”.

(3) Article 180C shall be renumbered as Article 180B and in paragraph (7) of that Article as so renumbered for “Article 180D” substitute “Article 180C”.

(4) In the heading to Article 180D for “Article 180C” substitute “Article 180B”.

(5) Article 180D shall be renumbered as Article 180C and in that Article as so renumbered in each place where “Article 180C” occurs substitute “Article 180B”.

This Order brings into operation Article 21 of the Road Traffic (Northern Ireland) 2007 which inserts new Articles 180B and 180C into the Road Traffic (Northern Ireland) Order 1981.

Article 180B gives the police the power to seize motor vehicles that are being driven without insurance and includes the power to enter certain premises and to use reasonable force.

Article 180C provides the Secretary of State with the regulation making power to provide for the removal and retention of vehicles that have been seized under Article 180B and for the release or disposal of those vehicles.

S.I 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 11 December 2008

Commencement date 6 January 2009

Under Article 180C of the Road Traffic (Northern Ireland) Order 1981 ("the 1981 Order") (retention etc. of vehicles seized under Article 180B) the police have certain powers relating to the removal etc. of vehicles seized under Article 180B of that Order. These Regulations provide for the retention, safe keeping and disposal by the police or persons authorised by them, of vehicles seized under those powers.

Regulations 1 and 2 provide for citation, commencement and interpretation.

Regulation 3 provides for the retention and safe keeping of motor vehicles by a constable or person authorised by the Chief Constable.

Under regulation 4(1), a constable seizing a vehicle under Article 180B of the 1981 Order is required to give a seizure notice to the driver of that vehicle unless the circumstances make it impractical for him to do so. Under regulation 4(2) and (4), the authorised person having custody of the vehicle so seized is obliged to take such steps as are reasonably practicable to give a seizure notice to the registered keeper and to the owner, where that appears to be someone different, of the vehicle, requiring him to claim the vehicle within a specified period being not less than 7 working days.

Regulation 4(3) and (4) specifies the information that must be contained on a seizure notice. In particular, the notice must indicate that charges may be payable by that person and that a valid driving licence and certificate of insurance must be produced at a specified police station in respect of the vehicle and that the vehicle may be retained until these conditions are met. The level of charges is prescribed in regulation 6.

Where the registered keeper and, where the owner appears to be someone different, the owner of the vehicle fails to comply with any requirement in a seizure notice given to them under regulation 4(2) or where the authorised person was not able, having taken such steps as are reasonably practicable, to give a seizure notice to the registered keeper and, where the owner appears to be someone different, the owner under regulation 4(2), the authorised person may dispose of the vehicle in accordance with regulation 7.

Regulation 5 provides for the release of vehicles and how an owner or registered keeper can reclaim the vehicle. Regulation 6 provides for the charges to be paid according to the vehicles position, condition and weight when seized. Charges can cover both seizure and storage costs.

Regulation 8 provides that where a vehicle is sold, the net proceeds of sale are payable to the owner of the vehicle, if he makes a claim within a year of the sale.

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

6.—(1) The charge payable under regulation 5(1) 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—Regulation 6(2)

<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 damaged or both	£250	£650	Unladen—£2000	Unladen—£3000
			Laden—£3000	Laden—£4500
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 charge specified in relation to those vehicles in row 2 of that table.

Table 2—Regulation 6(3)

<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 purposes 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.

Disposal of motor vehicles

7.—(1) Subject to paragraph (2), the authorised person may, in such manner as he thinks fit, dispose of the vehicle at any time if—

- (a) where the registered keeper and owner of the vehicle appear to be the same person—
 - (i) that person fails to comply with any requirement in a seizure notice given to him under regulation 4(2); or
 - (ii) the authorised person was not able, having taken such steps as were reasonably practicable, to give a seizure notice to that person;

- (b) where the registered keeper and owner appear to be different—
- (i) where a seizure notice was given to both of those persons under regulation 4(2), neither the registered keeper nor the owner of the vehicle comply with all requirements in that seizure notice;
 - (ii) where the authorised person was only able, having taken such steps as were reasonably practicable, to give a seizure notice to one of those persons under regulation 4(2), that person failed to comply with any requirement in that seizure notice; or
 - (iii) the authorised person was not able, having taken such steps as were reasonably practicable, to give a seizure notice to either the registered keeper or the owner.
- (2) The authorised person may not dispose of the vehicle under this regulation—
- (a) during the period of 14 days 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 in the seizure notice in accordance with regulation 4(4)(c); or
 - (c) if not otherwise covered by sub-paragraph (a) or (b), during the period of 7 working days starting with the date on which the vehicle is claimed under regulation 5.

Payment of proceeds of sale to owner of vehicle

- 8.—**(1) Where the authorised person disposes of a motor vehicle in pursuance of these Regulations by means of sale, he shall pay the net proceeds of sale to any person who, before the end of the period of one year beginning with the date on which the vehicle is sold, satisfies the authorised person that at the time of the sale he was the owner of the vehicle.
- (2) If it appears to the authorised person that more than one person is the owner of a particular vehicle, such one of them as the authorised person thinks fit shall be treated as its owner for the purposes of paragraph (1).
- (3) In this regulation "the net proceeds of sale" means any sum by which the proceeds of sale exceed the aggregate of such sums as may be payable under these Regulations in respect of the seizure and retention of the vehicle.