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STATUTORY INSTRUMENTS

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**1997 No. 276**

**The Road Traffic Regulation (Northern Ireland) Order 1997**

**PART VIII**

**REMOVAL AND DISPOSAL OF VEHICLES**

**Power of constable to require removal of vehicles**

**47.**—(1) This paragraph applies to a vehicle which—

- (a) has broken down, or been permitted to remain at rest, on a road in such a position or in such condition or in such circumstances as to cause obstruction to persons using the road or as to be likely to cause danger to such persons; or has been permitted to remain at rest or has broken down and remained at rest on a road in contravention of any statutory prohibition or restriction.

(2) A constable may require the owner, driver or other person in control or in charge of any vehicle to which paragraph (1) applies to remove the vehicle as soon as practicable to another position on that or another road or to a place which is not on a road.

(3) For the purposes of this Article the suspension under Article 6 or 18(3) of the use of a parking place is a restriction imposed under this Order.

(4) In this Part—

“remove” includes arrange for removal; and

“vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

**Power of constable to remove vehicles**

**48.**—(1) This paragraph applies to a vehicle—

- (a) to which Article 47(1) applies;
- (b) which appears to a constable to have broken down on a road and to have been abandoned; or
- (c) which has been permitted to remain at rest on a road in such a position or in such condition or in such circumstances as to appear to a constable to have been abandoned.

(2) A constable may remove a vehicle to which paragraph (1) applies to another position on that or another road or to a place which is not on a road.

(3) A constable may remove a vehicle under paragraph (2) by towing or driving it or in such other manner as he thinks necessary and may take such measures in relation to the vehicle as he thinks necessary to enable the vehicle to be removed.

(4) Where—

- (a) a constable proposes to remove a vehicle to which paragraph (1)(b) or (c) applies; and

(b) he considers that the vehicle is in such a condition that it ought to be destroyed, he shall affix to the vehicle a notice stating that he proposes to remove the vehicle after a period of seven days for destruction.

(5) Any vehicle removed by a constable under paragraph (2) and appearing to him to have been abandoned may be delivered to a district council with its consent.

(6) While a vehicle is in the custody of a constable under this Article, not being a vehicle which in the opinion of the constable is in such a condition that it ought to be destroyed, he shall take such steps as are reasonably necessary for its safe custody.

### **Power of Department to remove vehicles**

**49.**—(1) This paragraph applies to a vehicle (other than a vehicle which a district council is under a duty to remove under Article 30 of the Pollution Control and Local Government (Northern Ireland) Order 1978) which—

- (a) appears to the Department to have broken down on a public road and to have been abandoned; or
- (b) has been permitted to remain at rest on a public road in such a position or in such condition or in such circumstances as to appear to the Department to have been abandoned.

(2) The Department may remove a vehicle to which paragraph (1) applies to a place which is not on any road.

(3) The Department may remove a vehicle under paragraph (2) in such manner as it thinks necessary and may take such measures in relation to the vehicle as it thinks necessary to enable the vehicle to be removed.

(4) Where—

- (a) the Department proposes to remove a vehicle under paragraph (2); and
- (b) the Department considers that the vehicle is in such a condition that it ought to be destroyed,

the Department shall affix to the vehicle a notice stating that the Department proposes to remove the vehicle after a period of seven days for destruction.

(5) Any vehicle removed by the Department under paragraph (2) and appearing to the Department to have been abandoned may be delivered to a district council with its consent.

(6) While a vehicle is in the custody of the Department under this Article, not being a vehicle which in the opinion of the Department is in such a condition that it ought to be destroyed, the Department shall take such steps as are reasonably necessary for the safe custody of the vehicle.

### **Obstructing removal of vehicles**

**50.** A person who intentionally obstructs or impedes, or assists another person to obstruct or impede, the removal of a vehicle under Article 47,48 or 49, is guilty of an offence.

### **Disposal of vehicles by a police officer**

**51.**—(1) Subject to paragraphs (2) to (4), a police officer may, in such manner as he thinks fit, dispose of a vehicle which appears to him to be abandoned and which has been, or could at any time be, removed in pursuance of Article 48 or an order under Article 13 or 15.

(2) The time at which a vehicle may be disposed of by a police officer under paragraph (1) is as follows—

- (a) in the case of a vehicle which in his opinion is in such condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, any time in the course of or after its removal;
- (b) in the case of a vehicle which in his opinion is in such condition that it ought to be destroyed and on which a current licence was displayed at the time of its removal, any time after the licence expires;
- (c) in any other case, any time after the police officer has taken reasonable steps to find the owner of the vehicle and either—
  - (i) the police officer has failed to find such a person; or
  - (ii) he has failed to comply with a notice served on him requiring him to remove the vehicle from the custody of a constable within 21 days from the day on which the notice was served,

but, in a case where it appears to the police officer that a licence is in force in respect of the vehicle, not a time earlier than the expiration of the licence.

(3) In paragraph (2)—

- (a) any reference in sub-paragraphs (a) and (b) to a current licence includes a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place;
- (b) for the purposes of sub-paragraphs (b) and (c) a licence shall be treated as still in force for a period of 14 days beginning with the day following that on which it expired, and references to the expiration of the licence shall be construed accordingly.

(4) If, before a vehicle is disposed of under paragraph (1), the vehicle is claimed by a person who—

- (a) satisfies the police officer that he is the owner of the vehicle; and
- (b) pays the Police Authority such sums as may reasonably have been incurred in respect of the removal and storage of the vehicle,

the police officer shall permit him to remove the vehicle from the custody of a constable.

(5) If, before the expiration of one year from the date on which a vehicle is sold in pursuance of this Article, any person satisfies the Police Authority that at the time of the sale he was the owner of the vehicle, the Police Authority shall pay him any sum by which the proceeds of sale exceed the reasonable costs of the removal, storage and disposal of the vehicle.

(6) If in the case of any vehicle it appears to the Police Authority that more than one person is or was the owner of the vehicle at the relevant time, such one of them as the Police Authority thinks fit shall be treated as the owner of the vehicle for the purposes of paragraphs (4) and (5).

(7) In this Article and Article 52—

“licence”, in relation to a vehicle, means a licence issued in respect of the vehicle under the Vehicle Excise and Registration Act 1994 or anything which appears to the Department or a police officer to be a corresponding licence in a country outside Northern Ireland;

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“police officer” means a member of the Royal Ulster Constabulary not below the rank of Inspector.

**Disposal of vehicles by the Department**

52.—(1) Subject to paragraphs (2) to (4), the Department may, in such manner as it thinks fit, dispose of a vehicle which appears to the Department to be abandoned and which has been, or could at any time be, removed in pursuance of Article 49 or an order under Article 13 or 15.

(2) The time at which a vehicle may be disposed of by the Department under paragraph (1) is as follows—

- (a) in the case of a vehicle which in the opinion of the Department is in such condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, any time in the course of or after its removal;
- (b) in the case of a vehicle which in the opinion of the Department is in such condition that it ought to be destroyed and on which a current licence was displayed at the time of its removal, any time after the licence expires;
- (c) in any other case, any time after the Department has taken reasonable steps to find the owner of the vehicle and either—
  - (i) the Department has failed to find such a person; or
  - (ii) he has failed to comply with a notice served on him requiring him to remove the vehicle from the custody of the Department within 21 days from the day on which the notice was served,

but, in a case where it appears to the Department that a licence is in force in respect of the vehicle, not a time earlier than the expiration of the licence.

(3) In paragraph (2)—

- (a) any reference in sub-paragraphs (a) and (b) to a current licence includes a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place;
- (b) for the purposes of sub-paragraphs (b) and (c) a licence shall be treated as still in force for a period of 14 days beginning with the day following that on which it expired, and references to the expiration of the licence shall be construed accordingly.

(4) If, before a vehicle is disposed of under paragraph (1), the vehicle is claimed by a person who—

- (a) satisfies the Department that he is the owner of the vehicle; and
- (b) pays the Department such sums as may reasonably have been incurred in respect of the removal and storage of the vehicle,

the Department shall permit him to remove the vehicle from its custody.

(5) If, before the expiration of one year from the date on which a vehicle is sold in pursuance of this Article, any person satisfies the Department that at the time of the sale he was the owner of the vehicle, the Department shall pay him any sum by which the proceeds of sale exceed the reasonable costs of the removal, storage and disposal of the vehicle.

(6) If in the case of any vehicle it appears to the Department that more than one person is or was the owner of the vehicle at the relevant time, such one of them as the Department thinks fit shall be treated as the owner of the vehicle for the purposes of paragraphs (4) and (5).

**Disposal of vehicles by district council**

53. Where a vehicle is delivered to a district council under Article 48(5) or 49(5), Article 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (disposal of removed vehicles) shall apply to that vehicle as it applies to a vehicle in the custody of the district council in pursuance of Article 30 of that Order with the substitution in paragraph (1)(a) of Article 31 of

that Order for the reference to a notice affixed under paragraph (3) of Article 30 of a reference to a notice affixed under paragraph (4) of Article 48 or 49.

### **Recovery of expenses connected with removed vehicles**

**54.**—(1) Where a vehicle is removed by the Department from a parking place in pursuance of an order under Article 13 or 15 or from a road under Article 49, the Department may recover from any person responsible any expenses reasonably incurred—

- (a) in respect of the removal of the vehicle;
- (b) in respect of any period during which the vehicle is in its custody; and
- (c) where the vehicle is disposed of under Article 52.

(2) Where a vehicle is removed by a constable from a road under Article 48, the Police Authority may recover from any person responsible any expenses reasonably incurred—

- (a) in respect of the removal of the vehicle;
- (b) in respect of any period during which the vehicle is in the custody of a constable; and
- (c) where the vehicle is disposed of under Article 51.

(3) Where a vehicle is in the custody of a district council under Article 48(5) or 49(5), the district council may recover from any person responsible any expenses reasonably incurred by it—

- (a) in respect of any period during which, the vehicle is in its custody; and
- (b) where the vehicle is disposed of under Article 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (as applied by Article 53).

(4) In this Article “person responsible” in relation to a vehicle means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in paragraph (1) or (2), unless he shows that he was not concerned in, and did not know of, its being put there;
- (b) the person by whom it was put in that place; or
- (c) any person convicted of an offence under Article 29(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978 in consequence of the putting of the vehicle in that place.

(5) Any sum recoverable by virtue of this Article shall be a civil debt recoverable summarily.

(6) Without prejudice to paragraph (5), where any sum is recoverable in respect of a vehicle under paragraph (1)(a) or (b), the Department shall be entitled to retain custody of the vehicle until that sum has been paid.

(7) Without prejudice to paragraph (5), where any sum is recoverable in respect of a vehicle under paragraph (2)(a) or (b), a constable shall be entitled to retain custody of the vehicle until that sum has been paid.