



STATUTORY INSTRUMENTS.

S.I. No. 460 of 2011



ROAD TRAFFIC ACT 1994 (DETENTION OF VEHICLES)
REGULATIONS 2011

(Prn. A11/1649)

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I, LEO VARADKAR, Minister for Transport, Tourism and Sport in exercise of the powers conferred on me by section 41(1) (as amended by section 19 of the Road Traffic Act 2006 (No. 23 of 2006)) of the Road Traffic Act 1994 (No. 7 of 1994) and the National Roads and Road Traffic (Transfer of Departmental Administration and Ministerial Functions) Order 2002 (S.I. No. 298 of 2002) (as adapted by the Transport (Alteration of the Name of Department and Title of Minister) Order 2011 (S.I. No. 141 of 2011)) having consulted with the Minister for Justice and Equality, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Road Traffic Act 1994 (Detention of Vehicles) Regulations 2011.

(2) These Regulations come into operation on 15th September 2011.

Definitions

2. In these Regulations—

“Act of 1994” means Road Traffic Act 1994 (No. 7 of 1994);

“approved policy of insurance” means an approved policy of insurance within the meaning of section 56 of the Road Traffic Act 1961 (No. 24 of 1961);

“authorised agent” means an agent of the Garda Síochána authorised to accept payment of a charge on behalf of the Commissioner and to release a vehicle in accordance with these Regulations;

“Commissioner” means Commissioner of the Garda Síochána;

“design gross vehicle weight” means the gross weight of a vehicle laden with the heaviest load it can reasonably carry having regard to the engine capacity, brakes, tyres and the general construction of the vehicle and shall, until the contrary is shown, be taken to be the design gross weight of the vehicle as specified by the manufacturer or distributor, or where the design gross weight of the vehicle as specified by the manufacturer or distributor is not ascertainable, the design gross weight of the vehicle as specified by an automotive engineer;

“dispose of” includes sell.

Detention, removal and storage of vehicle

3. A member of the Garda Síochána is authorised in the case of a mechanically propelled vehicle referred to in section 41(1) of the Act of 1994 to detain,

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 13th September, 2011.*

remove and store the vehicle and to make an arrangement with any other person for such detention, removal or storage.

Release of vehicle

4. Subject to Regulation 6 and 7, a vehicle which has been detained, removed and stored in accordance with Regulation 3 shall not be released until the person claiming the vehicle—

- (a) pays the charges in respect of the detention, removal and storage of the vehicle in accordance with Regulation 5, and
- (b) produces to the member of the Garda Síochána or to the authorised agent who is in charge of the place at which the vehicle is kept—
 - (i) the vehicle registration book, vehicle licensing certificate or vehicle registration certificate which names the registered owner of the vehicle,
 - (ii) photographic identification showing the person to be the owner named, and
 - (iii) where the owner or another person intends to drive the vehicle away—
 - (A) a driving licence licensing the intending driver to drive the vehicle, and
 - (B) an approved policy of insurance in respect of the use of the vehicle by the intending driver.

Charges for detention, removal and storage

5. (1) Subject to Regulation 6 and 7, where a vehicle has been detained, removed and stored in accordance with Regulation 3, the owner of the vehicle shall pay to the Commissioner the following charges:

- (a) in the case of a vehicle with a design gross weight not exceeding 3,500 kg—
 - (i) €125 in respect of its detention, removal and storage for one day or a part of a day, and
 - (ii) €35 in respect of each further day or part of a day that it is stored;
 and
- (b) in the case of a vehicle with a design gross weight exceeding 3,500 kg—
 - (i) €250 in respect of its detention, removal and storage for one day or a part of a day, and
 - (ii) €50 in respect of each further day or part of a day that it is stored.

(2) A charge under this Regulation may be paid to an authorised agent.

Waiver of charges

6. Where a vehicle has been detained, removed and stored in accordance with Regulation 3 and the owner of the vehicle establishes to the satisfaction of the member of the Garda Síochána in charge of the place at which the vehicle is stored—

- (a) in the case of a vehicle referred to in section 41(1)(a) of the Act of 1994, that the vehicle—
 - (i) had been taken without the owner’s consent, and
 - (ii) was being used without the owner’s consent at the time it was detained,
- (b) in the case of a vehicle referred to in section 41(1)(b) of the Act of 1994, that an approved policy of insurance was in force in respect of the use of the vehicle at the time it was detained,
- (c) in the case of a vehicle referred to in section 41(1)(c) of the Act of 1994, that any excise duty payable under section 1 of the Finance (Excise Duties) (Vehicles) Act 1952 (No. 24 of 1952) in respect of the vehicle had been paid prior to the detention of the said vehicle, in respect of the day on which the vehicle was detained, or in respect of any part of the period of 2 months immediately prior to the detention,
- (d) in the case of a vehicle referred to in section 41(1)(d) of the Act of 1994, that at the time it was detained a test certificate (within the meaning of the Road Traffic (National Car Test) Regulations 2009 (S.I. No. 567 of 2009)) was in force in respect of the vehicle, or
- (e) in the case of a vehicle referred to in section 41(1)(e) of the Act of 1994, that at the time it was detained a certificate of roadworthiness (within the meaning of the European Communities (Vehicle Testing) Regulations 2004 (S.I. No. 771 of 2004)) was in force in respect of the vehicle,

the charges in respect of the detention, removal and storage of the vehicle shall be waived.

Charges where vehicle abandoned

7. Where a vehicle has been detained, removed and stored in accordance with Regulation 3 and such vehicle was at the time of the detention abandoned or illegally parked, the charges specified in Regulation 5 shall not be applied in addition to the application of charges specified in regulations made under section 97 of the Road Traffic Act 1961.

Disposal of unreleased vehicle

8. Subject to section 41(3) (as amended by section 90 of the Road Traffic Act of 2010 (No. 25 of 2010)) of the Act of 1994, where the owner of a vehicle which

has been detained, removed and stored in accordance with Regulation 3 has not claimed the vehicle or has not paid the charges due in accordance with Regulation 5, the Commissioner may dispose of the vehicle in any manner he or she thinks fit.

Notice of intention to dispose of vehicle

9. Where the Commissioner proposes to dispose of a vehicle under Regulation 8, the Commissioner shall—

- (a) serve on the owner a notice of intention to dispose of the vehicle, or
- (b) where, after reasonable enquiry, it has not been possible to ascertain the name and address of the owner of the vehicle, publish in at least one daily newspaper circulating in the area where the vehicle was detained—
 - (i) a notice of intention to dispose of a number of vehicles, and
 - (ii) the Internet address of the website where the notice of intention to dispose of each vehicle may be viewed.

Claim by owner after disposal

10. Where, before the expiration of the period of one year commencing on the date of the disposal of a vehicle by the Commissioner, a person satisfies the Commissioner that he or she was the owner of the vehicle at the time of its disposal, the Commissioner shall pay him or her any proceeds from the disposal less the sum of the charges due for the detention, removal and storage of the vehicle and the expenses reasonably incurred in the disposal of the vehicle.

Revocations

11. The following are revoked:

- (a) the Road Traffic Act 1994 (Section 41) Regulations 1995 (S.I. No. 89 of 1995); and
- (b) the Road Traffic Act 1994 (Section 41) (Amendment) Regulations 1998 (S.I. No. 357 of 1998).



GIVEN under my Official Seal,
8 September 2011.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These regulations give effect to Section 41 of the Road Traffic Act 1994 in regard to Garda seizure of vehicles. They replace earlier regulations and take into account amendments to Section 41 made by the Road Traffic Act 2006 and the Road Traffic Act 2010.

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