EXPLANATORY MEMORANDUM TO

The Criminal Justice (Northern Ireland) Order 2008 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations (Northern Ireland) 2025

S.R. 2025 No. 167

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice ('the Department') to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 66 of the Criminal Justice (Northern Ireland) Order 2008 ('the Order'), as amended, and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule amends the Criminal Justice (Northern Ireland) Order 2008 (Retention and Disposal of Seized Motor Vehicles) Regulations (Northern Ireland) 2008 ('the Criminal Justice Regulations 2008'), to increase the levels of charges set by the Department in relation to the removal and storage of seized vehicles in specified circumstances.

3. Background

3.1. Under the 2008 Order, the police have certain powers relating to the removal, retention and disposal of vehicles seized under Article 65 of that Order because the vehicle is being driven carelessly, inconsiderately or illegally off-road and is causing, or is likely to cause, alarm, distress or annoyance to members of the public.

3.2. The Criminal Justice Regulations 2008 set out the procedures to be followed when a vehicle has been seized, including details of the information that must be provided to the owner when it is seized (Regulation 4), how a vehicle may be reclaimed by the owner (Regulation 5), or disposed of when it is not reclaimed (Regulation 7).

3.3. Regulation 6 of the Criminal Justice Regulations 2008 sets out the charges payable for the removal and retention of the seized vehicle.

4. Consultation

4.1. In 2024, following reviews carried out in Scotland in 2019, and in England and Wales early in 2023, along with a request from the PSNI, the Department decided to review the levels of fees that can be charged in Northern Ireland for the removal, storage and disposal of vehicles in certain circumstances.

4.2. Accordingly, the Department conducted a public consultation which sought views on potential changes to the level of charges set by the Department of Justice that apply to the removal and storage of vehicles provided for in the Criminal Justice Regulations 2008, as well as the statutory charges contained within two other sets of regulations:- - The Enforcement of Fines and Other Penalties Regulations (Northern

Ireland) 2018, which relate to vehicle seizure orders made in respect of an unpaid financial penalty; and - The Road Traffic (Northern Ireland) Order 1981 (Retention and Disposal of Seized Motor Vehicles) Regulations (Northern Ireland) 2008, which relate to vehicles driven without insurance.

4.3. The consultation ran from 18 April 2024 until 13 June 2024 , and a total of eleven responses were received.

4.4. A written briefing, providing an overview of the responses to the consultation, and the Department's proposed next steps, was provided to the Committee for Justice on 21 November 2024.

4.5. The Department's Way Forward Summary Report was subsequently published on 23 January 2025. (https://www.justice-ni.gov.uk/publications/vehicle-seizure-way-forward-summary-report) Therein, the Department outlined its intention to increase fees by 28% to reflect inflation and increased operational costs, and to maintain parity with fees in England and Wales.

5. Equality Impact

5.1. Having taken account of evidence gathered through consultation, the Department has concluded that the proposals do not have significant adverse effects for any group under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment was not considered necessary. There will be no impact on businesses, charities or voluntary bodies.

7. Financial Implications

7.1. The proposed Statutory Rule would increase the levels of statutory charges set by the Department in relation to the removal and storage of vehicles seized in accordance with the Criminal Justice Regulations 2008 by 28%, to reflect inflation and increased operational costs from 2008, and maintain parity with the level of equivalent fees in England and Wales.

7.2. The removal and storage charges must normally be paid to the recovery agent, usually by the vehicle's owner, before it will be released from storage. Where no payment is made within the specified time, the vehicle may be disposed of. If the vehicle is sold, the net proceeds of sale, after the deduction of any outstanding charges, are returned to the owner.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers that the proposed Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. The Statutory Rule would increase the levels of statutory charges set by the Department in relation to the removal and storage of vehicles seized in accordance with the Criminal Justice Regulations 2008 by 28%, to reflect

inflation and increased operational costs from 2008, and maintain parity with the level of equivalent fees in England and Wales.

11. Additional Information

11.1. In addition to this Statutory Rule, the Department has also made two other Statutory Rules to implement a similar increase in statutory charges, which were the subject of public consultation, as follows: - The Enforcement of Fines and Other Penalties (Amendment) Regulations (Northern Ireland) 2025; and - The Road Traffic (Northern Ireland) Order 1981 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations (Northern Ireland) 2025.