

THE REMOVAL, STORAGE AND DISPOSAL OF VEHICLES BY TRAFFIC OFFICERS AND THE SECRETARY OF STATE FOR TRANSPORT

CONSULTATION PAPER

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Separate to this Document:

- Annex A:** Draft Statutory Instrument:
Removal and Disposal of Vehicles by Traffic Officers (England) Regulations 2008
- Annex B:** Partial Regulatory Impact Assessment
- Annex C:** Consultation response form
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- Annex E:** A list of those who have been consulted

1. EXECUTIVE SUMMARY

1.1 This consultation is taking place to enable you to comment on the following proposed draft regulations:

The Removal and Disposal of Vehicles by Traffic Officers (England) Regulations 2008 ('the Regulations')

1.2 This consultation proposes to:

- Provide Traffic Officers designated under Section 2 of the Traffic Management Act 2004 ('Traffic Officers') with powers to request, remove or arrange the removal from the Strategic Road Network¹ (and roads affecting it) of vehicles that are parked illegally, abandoned, and broken down, which are causing danger or obstruction to other road users; and
- Give the Secretary of State for Transport the power to store and dispose of vehicles that have been or appear to have been abandoned, and that have been removed by Traffic Officers.

These powers will be similar to powers the Police currently have under the Removal and Disposal of Vehicles Regulations 1986.

1.3 This document will:

- Provide background information to explain why the Regulations are required;
- Provide a summary of current removal and disposal regulations, the powers the Police have and highlight the differences between these and the new Regulations;
- Set out proposed future policy.

1.4 The Police are equipped with powers to remove, store and dispose of vehicles which are:

- a) Broken down or accident damaged and are causing an obstruction or likely to cause a danger to other road users;
- b) Contravening a statutory prohibition or restriction, for example being illegally parked; or
- c) Abandoned or appear to have been abandoned.

1.5 The new proposals do not seek to transfer legal powers from the Police to Traffic Officers. The Police will continue to remove and dispose of vehicles from roads other than motorways and on motorways in certain circumstances, e.g. where criminal activity is suspected or where a fatal or serious injury has occurred.

¹ The Strategic Road Network comprises of most motorways and major trunk roads (usually referred to as 'A' roads) in England and are roads for which the Secretary of State for Transport is the highway authority.

- 1.6 The consultation focuses on the powers Traffic Officers need to effectively carry out the removal of vehicles on the Strategic Road Network and roads affecting the Strategic Road Network.
- 1.7 It is envisaged that Traffic Officers will carry out or arrange for the removal of abandoned and broken down vehicles and where relevant, the Secretary of State will arrange for storage and ultimate disposal of abandoned vehicles.
- 1.8 This consultation does not cover or seek to cover:**
- Issues surrounding the operation of existing or new removal or recovery schemes; or
 - Issues surrounding the statutory charging regime for the removal, storage and disposal of vehicles.

It would be appreciated if you could consider this when responding.

- 1.9 The consultation will run for 12 weeks from November 29th 2007.
- 1.10 The Highways Agency welcomes your comments on the above proposals contained in the Regulations which are attached in **Annex A**. You may also wish to respond to the questions we have asked under 'Consultation Questions' (see Section 8 of this document).
- 1.11 A partial Regulatory Impact Assessment has been carried out to assess the impact of the Regulations and is attached in **Annex B**. You are invited to comment on this also.

2. INTRODUCTION

2.1 This consultation is taking place to enable you to comment on the following proposed draft Regulations:

The Removal and Disposal of Vehicles by Traffic Officers (England) Regulations 2008 ('the Regulations').

2.2 The Highways Agency is an Executive Agency of the Department for Transport (DfT), responsible for operating, maintaining and improving the Strategic Road Network in England on behalf of the Secretary of State for Transport.

Traditionally, the Highways Agency has been responsible for maintaining, repairing and improving the Strategic Road Network. However, the Secretary of State for Transport has set new objectives for the Highways Agency and it now fulfils the role of a network operator.

In 2002/3, a review of roles and responsibilities was carried out by the Highways Agency and the Association of Chief Police Officers. The review concluded that certain responsibilities should be realigned to reflect respective organisational priorities. As part of this realignment, Traffic Officers appointed by the Secretary of State were introduced to deal with those tasks that would transfer from the Police to the Highways Agency, on the Strategic Road Network. One of these tasks includes Traffic Officers dealing with the removal of abandoned and broken down vehicles. The Police will continue to lead at serious incidents and those that may involve crime.

The Highways Agency's prime objective is to deliver a high quality service to all customers by:

- reducing congestion and improving journey reliability;
- improving road safety;
- respecting the environment; and
- seeking and responding to feedback from customers.

All references to the Highways Agency in this document will mean the Highways Agency acting on behalf of the Secretary of State for Transport. The obligations that are placed on and powers given to the Secretary of State under the Regulations will be exercised on her behalf by the Highways Agency.

2.3 A Statutory Instrument is a type of legislation variously known as 'delegated', 'secondary' or 'subordinate'. Secondary legislation is made under powers conferred by primary legislation. The primary legislation specifies who may make the subordinate legislation and what it may contain. In this case, the primary legislation required for the removal of vehicles by Traffic Officers is Section 99 of the Road Traffic Regulation Act 1984 and Section 9 of the Traffic Management Act 2004. Section 9 of the Traffic Management Act 2004 also permits for consequential amendments to be made in relation to Sections 100 to 102 of the Road Traffic Regulation Act 1984 to enable

regulations to be made which address the storage and disposal of abandoned vehicles removed by Traffic Officers. In general, secondary legislation makes detailed provisions which supplement the primary legislation. The content of the secondary legislation is constrained by the scope of the primary legislation.

2.4 The Regulations propose to:

- Provide Traffic Officers, designated under Section 2 of the Traffic Management Act 2004 ('Traffic Officers') with powers to request, remove or arrange the removal from the Strategic Road Network (and roads affecting it) of vehicles that are illegally parked, abandoned, and broken down, which are causing danger or obstruction to other road users; and
- Give the Secretary of State for Transport the power to store and dispose of vehicles that have been or appear to have been, abandoned, and have been removed by Traffic Officers; and
- Give the Secretary of State for Transport the power to charge for the removal, storage and disposal of certain vehicles removed by Traffic Officers.

These powers will be similar to powers the Police currently have under the Removal and Disposal of Vehicles Regulations 1986.

For the avoidance of doubt, throughout the rest of this document references to abandoned vehicles include those vehicles which appear to have been abandoned. References to broken down vehicles include those vehicles that have broken down as a result of an accident.

2.5 **This document will:**

- Provide background information to explain why the Regulations are required;
- Provide a summary of current removal and disposal regulations, the powers the Police have and highlight the differences between these and the new Regulations;
- Set out proposed future policy; and
- Provide a list of consultation questions to consider when responding.

This consultation does not cover or seek to cover:

- Issues surrounding the operation of existing or new removal or recovery schemes; or
- Issues surrounding the statutory charging regime for the removal, storage and disposal of vehicles.

It would be appreciated if you could consider this when responding.

2.6 There are also a number of Annexes to this document:

Annex A: Draft Statutory Instrument: **Removal and Disposal of Vehicles by Traffic Officers (England) Regulations 2008**

Annex B: Partial Regulatory Impact Assessment

Annex C: Consultation response form

Annex D: Consultation criteria

Annex E: A list of those who have been consulted.

3. HOW TO RESPOND

3.1 Please send your comments and any questions to:

Postal Address:

Miss Kelly Luther
National Vehicle Recovery Project
Highways Agency
Woodlands
1st Floor
Manton Lane
Bedford
MK41 7LW

Email address:

NVRPconsultation@highways.gsi.gov.uk

3.2 The consultation will run for 12 weeks, starting on November 29th 2007 and ending on February 21st 2008. Please return completed questionnaires in hard copy, by e-mail or via the Highways Agency website by the closing date. We are also interested in any further related comments you may have.

3.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled. If you are not directly concerned with the proposals within your organisation, we would be grateful if you could forward it to a suitable person within your organisation.

3.4 A list of those consulted is attached at **Annex E**.

3.5 If you would like further copies of the consultation document, they can be accessed at www.highways.gov.uk/VehicleRecoveryConsultation or alternatively, please contact Kelly Luther at the above address or via email.

3.6 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

- 3.7 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Highways Agency.
- 3.8 The Highways Agency will process your personal data in accordance with the DPA. This will mean that your personal data will not be disclosed to third parties in contravention of the DPA. Confidential responses will be included in any statistical summary of numbers of comments received.

4. WHAT HAPPENS NEXT

- 4.1 A report on the consultation including the next steps will be published on our website at www.highways.gov.uk. A copy of the report will be sent to those who respond to the consultation. Hard copies will be available on request.
- 4.2 It is estimated that the report will be published within 3 months of the consultation concluding.
- 4.3 Subject to the results of the consultation, we envisage that the Regulations would be introduced in mid 2008. A formal announcement will be made nearer the time.

5. CONSULTATION CRITERIA

- 5.1 The consultation is being conducted in line with the Cabinet Office Code of Practice on Consultation. The Criteria are listed at **Annex D** which also includes details as to who to contact should you be unhappy with the way in which the consultation is being run. The full version of the Code can be accessed at:
<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>

6. BACKGROUND TO THE HIGHWAYS AGENCY

6.1 This section gives an overview of current Traffic Officer legislation and powers the Secretary of State has in relation to the removal and disposal of vehicles, to enable you to understand why the Regulations are being sought.

Overview of Traffic Officer powers

6.2 Through the Traffic Management Act 2004, Traffic Officers have powers, on roads for which the Secretary of State is the traffic authority, to:

- Stop and direct vehicles, cyclists and pedestrians; and
- Place temporary traffic signs to warn or direct traffic.

6.3 Under Section 5(3) of the Traffic Management Act 2004, Traffic Officers can only use these special powers on the Strategic Road Network and for a purpose connected to:

- Maintaining or improving the flow of traffic on a road;
- Preventing or reducing the effect of anything causing congestion or which has the potential to cause congestion on a road;
- Avoiding danger to persons on or near a road;
- Preventing damage to anything on or near a road; and
- Anything incidental to these purposes.

6.4 Traffic Officers can also operate on local roads off the Strategic Road Network where they have the consent of the traffic authority responsible, or at the direction of the Chief Officer of the Police for that area. For example, they may need to put up signs on a local road warning traffic of an incident on the Strategic Road Network ahead.

6.5 Traffic Officers began operating in the West Midlands in April 2004 and now patrol most motorways in England.

6.6 Traffic Officers do not have enforcement powers but it is an offence for someone not to comply with the direction of a Traffic Officer.

6.7 For more information on the Traffic Officer Service please visit the Highways Agency website at:

<http://www.highways.gov.uk/knowledge/601.aspx>

6.8 To see a copy of the Traffic Management Act 2004 (Part 1 - Traffic Officers) please access the link to the Office of Public Sector Information (OPSI) website at:

<http://www.opsi.gov.uk/acts/acts2004/20040018.htm>

General duties of the Secretary of State for Transport as a Highway Authority

6.9 The Secretary of State has a statutory duty, as a highway authority under Section 130 of the Highways Act 1980, to protect the rights of the public to use and enjoy any highway for which she is responsible. As a highway authority, the Secretary of State

also has a common law duty to prevent and remove obstructions. Section 333 of the Highways Act 1980 preserves that duty and the right to remove an obstruction. The Secretary of State, as a consequence of these duties, has a responsibility to clear the highways of obstructions and allow the free flow of traffic.

- 6.10 The powers given to Traffic Officers under the Traffic Management Act 2004 do not themselves cover the removal and disposal of vehicles and as a result Traffic Officers currently rely on the Police to remove and dispose of vehicles under their powers. However, Section 9 of the Traffic Management Act 2004 permits for regulations to be made under Section 99 of the Road Traffic Regulation Act 1984 for this purpose. In addition, consequential amendments can be made in relation to Sections 100 to 102 of the Road Traffic Regulation Act 1984, to enable the making of regulations which address the storage and disposal of vehicles that have been abandoned and have been removed by Traffic Officers.

7. CURRENT AND FUTURE REGULATIONS

7.1 This section aims to:

- Provide you with a general understanding of the existing Police removal and disposal of vehicles regulations;
- Highlight any differences that exist with the new Regulations;
- Outline proposed future policy.

7.2 The majority of powers the Police use to remove and dispose of vehicles are contained in the Removal and Disposal of Vehicles Regulations 1986 and Sections 99 to 102 of the Road Traffic Regulation Act 1984.

7.3 Sections 99 and 101 of the Road Traffic Regulation Act 1984 give the Secretary of State the power to make regulations for the removal and disposal of vehicles. The removal and disposal regulations used by the Police were made under those powers. Some of the powers that are contained in the Removal and Disposal of Vehicles Regulations 1986 are also exercisable by other authorities, for example local authorities and Traffic Wardens. For simplicity, this section will focus solely on the Police. We have attempted to provide a summary rather than a detailed analysis of the legislation.

7.4 The Police regulations cover Great Britain. Traffic Officer powers only apply to the Strategic Road Network and roads affecting the Strategic Road Network in England.

Removal

Police powers

7.5 Under Regulation 3 of the Removal and Disposal of Vehicles Regulations 1986, a Police Officer has the power to require the owner or driver of a vehicle to remove that vehicle as soon as is practicable. This only applies to vehicles which:

- are broken down on a road causing an obstruction or likely to cause danger to other road users; or
- have broken down on a road and remain there illegally.

7.6 The Police also have the power under Regulation 4 to remove or arrange removal of vehicles which are abandoned or have broken down and where the owner or driver is unable or refuses to make appropriate arrangements.

Traffic Officer powers

- 7.7 If the Regulations come into force, Traffic Officers will have similar powers to those mentioned in 7.5 and 7.6.

Abandoned Vehicles:

- 7.8 If a Traffic Officer finds a vehicle on the network which is abandoned and is not causing an immediate obstruction or danger, a Traffic Officer will check if any requests for assistance have been received relating to that vehicle (e.g. via emergency roadside telephones). If no contact with the Police or Highways Agency has been made, attempts will be made to locate the person responsible for the vehicle.
- 7.9 If the vehicle owner or driver still cannot be located within a reasonable time, given the circumstances, the Traffic Officer will arrange for the vehicle to be removed and deliver it to the Secretary of State to be stored (most likely in secure premises such as a compound or depot).
- 7.10 Where a vehicle that appears to have been abandoned is in the process of being removed; if the owner or driver returns to the vehicle, it will be at the discretion of the Highways Agency whether they are charged a fee for the statutory removal.

Broken down vehicles:

- 7.11 If a vehicle has broken down and is not causing an immediate obstruction or danger, for example the vehicle is safely located on the hardshoulder, Traffic Officers will request the owner or driver to move their vehicle as soon as is reasonable. If the owner or driver specifies their own suitable private arrangement to remove their vehicle, Traffic Officers will assist the owner or driver and contact their specific recovery service provision if requested.
- 7.12 If the owner or driver does not have, or is unable to make, their own suitable private arrangement to remove their vehicle, Traffic Officers will offer to facilitate removal and put the owner or driver in contact with a recovery service approved by the Highways Agency. A vehicle removal facilitated by a Traffic Officer using a recovery service approved by the Highways Agency will be at the owner's expense.
- 7.13 If a vehicle has broken down and is causing an immediate obstruction or danger (for example, the vehicle is in a live lane) and the owner or driver is unable to make their own appropriate arrangements, a Traffic Officer may remove or arrange for the removal of the vehicle under the regulations. A Traffic Officer can only do this if it is reasonable in the circumstances at the time that the vehicle should be removed.

Vehicles that have broken down as a result of an accident:

- 7.14 If a vehicle has broken down as a result of an accident and is able to come to rest on the hardshoulder, and is not causing an immediate obstruction or danger, it will be treated in a similar way to a broken down vehicle in 7.11 and 7.12.
- 7.15 If a vehicle has broken down as a result of an accident and is causing an immediate obstruction or danger, for example the vehicle is in a live lane, it will be treated in a similar way to a broken down vehicle in 7.13.
- 7.16 If a vehicle has broken down as a result of an accident and the owner or driver is no longer present, for example if the owner or driver has been taken to hospital, Traffic Officers may remove or arrange for the removal of the vehicle under these Regulations and deliver it to the Secretary of State.

Traffic Officer powers on roads affecting the Strategic Road Network

- 7.17 Traffic Officer powers on roads that are not part of the Strategic Road Network will be restricted. Traffic Officers can only remove vehicles that are on a road for which the Secretary of State is not the highways authority where the Traffic Officer is acting at the direction of the Chief Officer of Police for the area or with the consent of the traffic authority for that road and where that vehicle is affecting any part of the Strategic Road Network.

Method of removing vehicles

Police powers

- 7.18 Regulation 6 allows the Police to choose how they remove a vehicle. This power enables them to remove a vehicle by driving, towing or making other arrangements for removal. This could include contacting an approved vehicle recovery operator. Regulation 6 also enables them to make whatever arrangements are necessary to get the vehicle in a position to be removed.

Traffic Officer powers

- 7.19 If the Regulations come into force, Traffic Officers will have similar powers to those mentioned in section 7.18.
- 7.20 In addition, where a Traffic Officer requires a vehicle owner or driver to remove a vehicle and at the time that the vehicle is to be removed the Traffic Officer can see that the owner's chosen method of removal may cause danger to other road users, the Traffic Officer can require the owner or driver to use a more suitable method of removal.

- 7.21 In situations where a suitable alternative removal method cannot be agreed, Traffic Officers will be able to intervene under the Regulations and remove, or arrange for the removal of, the vehicle, in such a manner as the Traffic Officer may think is necessary.

Adjoining land

Police powers

- 7.22 The Police are able to remove abandoned vehicles from private land that adjoins the Strategic Road Network, by providing a notice to the person who appears to be the occupier of the land. The person who appears to occupy the land may object in writing up to 15 days of the notice being given to them.

Traffic Officer powers

- 7.23 Traffic Officers will have similar powers to those mentioned in 7.22. Where a Traffic Officer is unable to determine who occupies the land or what the last known address of the land occupier is, they will be able to affix the notice to a prominent object on the land giving notice of their intention to remove the vehicle.

Storage and disposal of vehicles

Police powers

Abandoned vehicles:

- 7.24 Section 100 of the Road Traffic Regulation Act 1984 makes provision for vehicles to be delivered to the Chief Constable for the area in which they were found. Section 100 also places a duty on the Chief Constable to ensure safe custody of removed vehicles.
- 7.25 Section 101 of the Road Traffic Regulation Act 1984 deals with the disposal of abandoned vehicles. In certain circumstances vehicles can be disposed of immediately, for example if the vehicle does not have a valid tax disc. In most other circumstances reasonable attempts will be made to locate the owner or driver of the vehicle. If the Chief Officer of Police is unable to locate the owner of a vehicle that has been abandoned, it can be disposed of by sale or by destruction.
- 7.26 The reasonable steps that should be taken to find a vehicle owner are contained in Regulation 12 of the Removal and Disposal of Vehicles Regulations 1986.
- 7.27 If the owner cannot be found, or has not come forward to claim the vehicle, the Police can start the process to dispose of the vehicle.
- 7.28 If the owner of the vehicle comes forward, the vehicle should not be disposed of. The owner must first prove that they are the owner by providing certain forms of

identification and paying any relevant charges incurred for the removal and storage of the vehicle. If the vehicle was sold and the owner later comes forward, the Police must give the owner the proceeds of the sale, minus any charges. However, the owner must prove, within 1 year of sale, that they were the owner when the vehicle was sold.

- 7.29 The final part of Section 101 requires the Police to provide information about the vehicle after it is disposed of. The type of information and to whom it must be given is set out under Regulation 15 of the Removal and Disposal Regulations 1986. This includes providing vehicle details to the DVLA (including how it was disposed of).

The Regulations (the Secretary of State powers)

Abandoned vehicles:

- 7.30 The Regulations will place similar responsibilities to those of the Police onto the Secretary of State for Transport. Only abandoned vehicles can be delivered to the Secretary of State. The obligations placed on the Secretary of State will be exercised on her behalf by the Highways Agency.
- 7.31 Section 100 of the Road Traffic Regulation Act 1984 will place a duty on the Secretary of State to ensure the safe custody of vehicles that have been abandoned, which are removed by Traffic Officers.
- 7.32 Regulation 13 sets out the steps to be taken to find the owners of vehicles that have been removed by Traffic Officers. The Regulations consider vehicles that are registered in Great Britain, Republic of Ireland, Northern Ireland, the Channel Islands and those vehicles that do not have a registration mark. Regulation 13 identifies various authorities the Secretary of State should contact to find the person who appears to be the owner of the vehicle. These authorities include: the Police force for the area in which the vehicle was found, the relevant Secretary of State and Hire Purchase Information Ltd. Requirements depend on where the vehicle was registered.
- 7.33 Vehicle owners will claim their vehicles in a similar way to the Police, as laid out in paragraph 7.28.

Broken down vehicles and vehicles that have broken down as the result of an accident:

- 7.34 The Secretary of State will not store or dispose of vehicles that have broken down. Vehicles that are removed by Traffic Officers and that have broken down as the result of an accident will be taken to the nearest appropriate place.

Cost recovery – statutory charges

Police

- 7.35 Section 102 of the Road Traffic Regulation Act 1984 gives the Police power to recover prescribed costs for the removal, storage and disposal of vehicles they remove. The current costs are set out as charges under the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc) Regulations 1989. In brief, the charges are £105 for removal, £12 per day for storage and £50 for disposal. These charges are currently being reviewed by the Home Office.

The Regulations (the Secretary of State powers)

- 7.36 The consequential amendments that are proposed to be made to section 102 of the Road Traffic Regulation Act 1984 by the Regulations will permit the Secretary of State to recover the prescribed charges for the removal, storage and disposal of vehicles. The regulations that set out the amount of the prescribed charges would be applicable both to the Police and the Secretary of State.
- 7.37 Where a suitable private removal arrangement has been made and executed (see paragraphs 7.11 – 7.12), a statutory charge will not be made.

Abandoned:

- 7.38 The Secretary of State can seek removal, storage and disposal charges (if relevant) from a vehicle owner in relation to abandoned vehicles that Traffic Officers have removed. These are set out in section 7.35.

Broken down vehicles and vehicles that have broken down as the result of an accident:

- 7.39 Where a Traffic Officer has removed or arranged for the removal of the vehicle to the nearest appropriate place using powers within these Regulations, a prescribed statutory charge is applicable for the removal of the vehicle. A system will be put in place to give the person in charge of the vehicle every opportunity to pay the prescribed charge at the time of the statutory removal. Where the prescribed charge is paid, a standard acknowledgement in the form of a receipt will be issued at the time of payment; together with relevant contact information. A subsequent follow-up notice confirming the prescribed charge had been paid will be issued to the owner. If the driver or owner of the vehicle is unable to pay the prescribed statutory charge at the time of the statutory removal, a notice will be issued to the owner requesting payment. Reasonable time will be given to pay the prescribed charge. However, if the owner fails to pay, legal action will be taken to recover the prescribed charges.

Other issues

Personal property

- 7.40 Removed vehicles will remain intact until they are returned to their owners, or a decision is made on disposal. Property will not be removed from a vehicle prior to a decision on disposal unless items must be removed on the grounds of safety. The Police will be informed if it becomes apparent that the vehicle contains property that may be unlawful or may be the proceeds of, or connected to crime.

The vehicle will be sealed preferably at the scene or at the recovery service providers secure premises. Once a decision has been made to dispose of a vehicle, it will be opened in the presence of two people from the approved vehicle recovery service provider. The personal property will be removed, logged and stored. After a reasonable time period from the date the vehicle was sold or destroyed, the property removed from the vehicle will be disposed of.

8. CONSULTATION QUESTIONS

- 8.1 As well as any comments you may have regarding the Regulations, it would be helpful if you could include in your reply any response you may have to the questions below. A response form is located at **Annex C**.

You are reminded that these questions are not concerned with the issues surrounding the operation of existing or new removal or recovery services or issues surrounding the operation of the statutory charges regime that supports vehicle removal.

Q.1 Do you have any comments on the proposal to give Traffic Officers removal powers, as set out in the Regulations?

Q.2 Do you have any comments on the Secretary of State having storage and disposal powers, as set out within the Regulations?

Q.3 If the Regulations were enacted, would you have any additional concerns in regards to the removal powers provided to Traffic Officers or storage and disposal powers provided to the Secretary of State?

Please state any other comments that you have in relation to the proposed Regulations.

9. Partial Regulatory Impact Assessment

- 9.1 A partial Regulatory Impact Assessment has been carried out to assess the impact of the Regulations and is attached at **Annex B**. We would be grateful if you could comment on the partial Regulatory Impact Assessment, when responding to the consultation.
- 9.2 You may also wish to suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the proposals and any practical implementation issues.

10. QUESTIONS & ANSWERS

10.1 Some questions and answers are listed that may help you with any queries you have regarding the proposals. If you still have any questions please contact Kelly Luther at NVRPconsultation@highways.gsi.gov.uk

Q.1. **Is the Highways Agency seeking to establish and operate a monopoly for vehicle recovery from its network?**

No. Traffic Officers will not provide an alternative vehicle recovery service nor will the Highways Agency be entering the recovery sector as a competitor. Their removal powers will be focused on vehicles which have been abandoned or broken down where the owner or driver is unable to make their own suitable arrangements. The Secretary of State for Transport recognises the important and specialist work carried out by vehicle recovery operators, and wishes to procure these appropriate expertise from the industry to support its business needs.

Q.2 **Will Traffic Officers seek to remove vehicles when the motorist is able to make their own arrangements for removal?**

Where a vehicle has broken down a Traffic Officers will enquire whether the motorist is able to make their own suitable arrangements. If they are able to make their own suitable arrangements they may do so. Where a motorist is unable to make their own suitable arrangement, Traffic Officers, where requested by the motorist, will help facilitate suitable recovery.

Any arrangements made by the motorist must be suitable in terms of safety to other road users. If arrangements are deemed to be unsuitable Traffic Officers may intervene in the interests of safety and to protect other road users.

Q.3 **Will every removal be a statutory removal?**

No. Most drivers will make their own suitable arrangements or, if requested, Traffic Officers will help facilitate a suitable recovery.

Q.4 **Will the Police continue to undertake removal and disposal of vehicles on the Strategic Road Network?**

The Police will retain their existing powers to remove vehicles on the Strategic Road Network, as they do elsewhere, and will still have primacy over certain incidents on the network. They will take the lead at serious incidents, such as major accidents and fatalities.

Q.5 Will Traffic Officers remove all vehicles themselves?

It is envisaged that the majority of removals will be conducted by a recovery service approved by the Highways Agency. However, in certain circumstances, Traffic Officers may undertake immediate removal to avoid danger.

Q.6 What about Statutory Charges?

The Home Office is currently reviewing the level of prescribed charges. The Home Office launched a public consultation on statutory charges on 8th May 2007, which closed on the 31st July 2007. Details can be found at www.homeoffice.gov.uk

2008 No.

ROAD TRAFFIC, ENGLAND

Removal and Disposal of Vehicles by traffic officers (England) Regulations
2008

<i>Made</i> - - - -	2008
<i>Laid before Parliament</i>	2008
<i>Coming into force</i> - -	2008

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 99(1), (2), and (3), 101(3) and (7) and 103(3) of the Road Traffic Regulation Act 1984⁽²⁾ (“the 1984 Act”) and section 9 of the Traffic Management Act 2004⁽³⁾ and after consultation with representative organisations in accordance with section 134(2) of the 1984 Act.

PART 1
GENERAL

Citation, commencement and extent

1.—• These Regulations may be cited as the Removal and Disposal of Vehicles by traffic officers (England) Regulations 2008 and shall come into force on [] 2008.

(1) These Regulations apply to England only.

Interpretation

2.—• In these Regulations—

“the 1984 Act” means the Road Traffic Regulation Act 1984;

⁽²⁾1984 c.27. Section 99 subsection (2)(c) was deleted by Schedule 8 of the Road Traffic Act 1991(c40) (“the 1991 Act”); subsection (3) was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16) (“the 2005 Act”), section 16(1) and (3) and Schedule 5, Parts 1 and 3; subsection (4) was repealed by the 2005 Act, Schedule 5, Part 1; Subsection (6) was inserted by the 1991 Act, Schedule 4, paragraph 32. Section 101 subsection (1) was amended by section 67(2) of the 1991 Act and by the 2004 Act, Schedule 11, paragraph 3(1)(a); subsection 3 was amended by sections 16(1), (2), (4) and 107 of the 2005 Act, Schedule 5 Part 1; subsections (4)-(6) were deleted by sections 99 and 98 of the 2004 Act, Schedule 11 paragraph 3(1)(b) and Schedule 12; subsection (8) was amended by S.I. 2001/1353 and by the Vehicle Excise and Registration Act 1994 (c.22), Schedule 3, paragraph 18(1) and by section 16(1) and (5) of the 2005 Act. Sections 101A was inserted by section 91 of the 2004 Act, Schedule 11, paragraph 3(2). Section 102 subsection (2) was substituted, and subsection (2A) was inserted, by section 91 of the 2004 Act, Schedule 11, paragraph (4)(1) and (2); subsection (8) has been amended by S.I. 2001/1353 and by section 68(1) and (3) of the 1991 Act, Schedule 8, and also by section 91 of the 2004 Act, Schedule 11, paragraph 4(1) and (3). Section 103 subsection (3) was substituted by section 48 of the 1991 Act, Schedule 4, paragraph 33. There have been other amendments made to sections 99, 100, 102, 103 and 134 which are not relevant to these Regulations.

⁽³⁾ 2004 c.18. Section 9 of the 2004 Act permits regulations to be made in relation to traffic officers and for consequential amendments to be made to sections 10-102 of the 1984 Act.

“relevant road” means any road for which the Secretary of State is the traffic authority other than:

- (a) the specified roads as defined by regulation 3 of the Severn Bridges Regulations 1996; and
- (b) the new bridge as defined by section 39 of the Severn Bridges Act 1992.

“traffic officer” means an individual designated as such by, or under an authority given by, the Secretary of State in accordance with section 2 of the Traffic Management Act 2004; and

any reference to a vehicle which has been permitted to remain at rest or which has broken down includes a reference to a vehicle which has been permitted to remain at rest or which has broken down before their coming into force.

PART 2

REMOVAL OF VEHICLES

Power of traffic officer to require removal of vehicles from relevant roads

3.—• This regulation applies to a vehicle which—

- (a) has broken down, or been permitted to remain at rest, on a relevant 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
- (b) has been permitted to remain at rest or has broken down and remained at rest on a relevant road in contravention of a prohibition or restriction contained in, or having effect under, any of the enactments mentioned in Schedule 1 to these Regulations.

(2) A traffic officer in uniform may where the owner, driver or person in control or in charge of that vehicle is present require him—

- (a) to move the vehicle or have it moved to any part of that road or to any other road or to any other place as the traffic officer may specify; or
- (b) not to move the vehicle or have it moved to any part of that road or to any other road or to any such position on any road as the traffic officer may specify.

(3) The person required to move a vehicle or to have it moved under this regulation shall do so as soon as is reasonable in all the circumstances.

Power of traffic officer to remove vehicles from relevant roads

4.—• Where a vehicle—

- (a) is a vehicle to which regulation 3 applies; or
- (b) having broken down on a relevant road appears to a traffic officer in uniform to have been abandoned without lawful authority; or
- (c) has been permitted to remain at rest on a relevant road in such a position or in such condition or in such circumstances as to appear to a traffic officer in uniform to have been abandoned without lawful authority,

then, subject to the provisions of sections 99 and 100 of the 1984 Act, a traffic officer in uniform may remove, or arrange for the removal of, the vehicle from the road to any other position on that road or to any other road or to any other place.

Power of traffic officer to require removal of vehicles from roads other than relevant roads

5.—• This regulation applies to a vehicle which—

- (a) has broken down, or permitted to remain at rest, on a road which is not a relevant road in such 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
- (b) has been permitted to remain at rest or has broken down and remained at rest on a road which is not a relevant road in contravention of a prohibition or restriction contained in, or having effect under, any of the enactments mentioned in Schedule 1 to these Regulations.

(2) Subject to regulation 7, a traffic officer in uniform may where the owner, driver or other person in control or in charge of that vehicle is present require him—

- (a) to move the vehicle or have it moved to any part of that road or to any other road or to any other place as the traffic officer may specify; or
- (b) not to move the vehicle or have it moved to any part of that road or to any other road or to any such position on any road as the traffic officer may specify.

(3) The person required to move a vehicle or to have it moved under this regulation shall do so as soon as is reasonable in all the circumstances

Power of traffic officer to remove vehicles from roads other than relevant roads

6. Where a vehicle—

- (a) is a vehicle to which regulation 5 applies; or
- (b) having broken down on a road which is not a relevant road, appears to a traffic officer in uniform to have been abandoned without lawful authority; or
- (c) has been permitted to remain at rest on a road which is not a relevant road in such a position or in such condition or in such circumstances as to appear to a traffic officer in uniform to have been abandoned without lawful authority;

then, subject to regulation 7 and the provisions of sections 99 and 100 of the 1984 Act, a traffic officer in uniform may remove, or arrange for the removal of, the vehicle from the road to any other position on that road or to any other road or to any other place.

Restriction on the exercise of powers in regulations 5(2) and 6

7. The powers contained in regulations 5(2) and 6 may only be exercised—

- (a) if the traffic officer is acting—
 - (i) at the direction of the chief officer of police for the area in which the road is situated; or
 - (ii) with the consent of the traffic authority for the road; and
- (b) for one or more of the following purposes—
 - (i) preventing danger to persons or other traffic using a relevant road or preventing risks of any such danger arising;
 - (ii) preventing an obstruction to anything on or near a relevant road or for a purpose incidental to either of these purposes.

Removing abandoned vehicles from land adjoining a relevant road

8. Subject to regulations 9 and 10 below, a traffic officer in uniform may remove or arrange for the removal of a vehicle which appears to be abandoned without lawful authority on any land adjacent to a relevant road which is occupied by any person.

Manner of giving notice to occupier of land before removing a vehicle

9.—(1) For the purpose of section 99(3) of the 1984 Act, a traffic officer in uniform shall give notice to a person who appears to him to be an occupier of land on which there is a vehicle which appears to the traffic officer to be abandoned without lawful authority and which he proposes to remove, in the following manner:-

- (a) the notice shall be given in the same or similar form as set out in Schedule 2;
- (b) the notice shall be addressed to the person who appears to be the occupier:
 - (i) by name; or
 - (ii) by the description of “the occupier of the land” and where it is addressed in such manner it shall also contain a description of the land;
- (c) the notice shall be delivered—
 - (i) personally to the person who appears to be the occupier; or
 - (ii) by leaving it at his usual or last known place of residence; or
 - (iii) by sending it in a prepaid registered or recorded delivery post, and addressed to him at his usual or last known place of residence.

(2) In the event it is not possible to identify:-

- (a) the person who appears to be the occupier of the land; or
- (b) the occupier’s usual or last known place of residence

then the notice may be affixed to some prominent object on the land..

(3) Where the person who appears to be the occupier is an incorporated company or body, the notice shall be delivered personally to, or sent by prepaid registered or recorded delivery post to, the secretary or clerk of the company or body at its registered or principal office;

(4) The notice and the envelope containing it shall be marked clearly and legibly with the words “Important--This Communication affects your property”, and shall be considered duly given:

- (i) in the case of a notice delivered personally, at the time of delivery;
- (ii) in the case of a notice left at the occupiers usual or last known place of residence, the day after leaving the notice at such place of residence;
- (iii) in the case of a notice sent by prepaid registered or recorded delivery post on the day it is signed for; or
- (iv) where it is affixed to some prominent object on the land the day after it is affixed.

Manner and period during which occupier of land may object

10.—○ For the purpose of section 99(3) of the 1984 Act where a notice is given in accordance with regulation 9 the occupier of land may object to the traffic officer’s proposal to remove the vehicle which appears to be abandoned in the following manner—

- (a) the objection shall be in writing; and
- (b) the objection shall be sent by post addressed to the Highways Agency’s National Recovery Team and at the address set out in the notice or left at its office at that address.

(2) The occupier of the land may object to the traffic officer’s proposal to remove the vehicle, within 15 days from the day when the notice was duly given.

Method of removing vehicles

11.—○ A person who removes or moves a vehicle under regulation 3, 4, 5 or 6 may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove or move it.

(2) Where, under regulations 3 or 5, a traffic officer requires a person to remove a vehicle and he determines that the manner of removal proposed to be used by that person may cause danger to other persons using the road, the traffic officer may require that the vehicle is moved in such other manner as he considers safe.

(3) Where a safe manner of removal cannot be agreed between the traffic officer and a person required to remove a vehicle, the traffic officer may remove the vehicle under regulation 4 or 6.

PART 3

DISPOSAL OF ABANDONED VEHICLES

Interpretation of Part 3

12. In this Part of these Regulations—

“description of the place of abandonment”, in relation to a vehicle, means a description of the place at which that vehicle appears to be abandoned which will be sufficient to enable that place to be identified after the vehicle has been removed from it;

“HP Information Ltd” means Hire Purchase Information Limited, being a company incorporated under the Companies Act 1985⁽⁴⁾;

“GB registration mark” means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994⁽⁵⁾;

“specified information”, in relation to a vehicle, means any information that can be or could have been ascertained from an inspection of the vehicle, or has been ascertained from any other source, including—

- (a) in the case of a vehicle which carries a GB registration mark, or a mark indicating registration in a country outside Great Britain, particulars of such mark; and
- (b) the make of the vehicle.

Application of sections 100, 101 and 102 of the Road Traffic Regulation Act 1984 in relation to the removal of vehicles by traffic officers

13.—● Sections 100, 101 and 102 of the 1984 Act, in so far as not modified by or inconsistent with the provisions of these regulations, shall apply in relation to the removal of vehicles by traffic officers.

(1) Section 100 (Interim disposal of vehicles removed under section 99), as so applied, shall have effect as if—

- (a) the following were inserted after subsection (3)—

“(3A) Any vehicle removed by, or by virtue of arrangements made by, a traffic officer in pursuance of regulations under section 99 and appearing to the traffic officer to be abandoned shall be delivered to the Secretary of State.”; and

- (b) the following were inserted after subsection (5)(c)—

““traffic officer” means an individual designated as such by, or under an authority given by the Secretary of State in accordance with section 2 of the Traffic Management Act 2004,”.

(2) Section 101 (Ultimate disposal of vehicles abandoned and removable under this Act), as so applied, shall have effect as if—

- (a) in subsection (8), in the definition of “competent authority”, there were added the following—

⁽⁴⁾ 1985 c. 6.

⁽⁵⁾ 1994 c.22.

“or

(d) the Secretary of State, where the vehicle has been removed by, or by virtue of arrangements made by, a traffic officer in pursuance of regulations under section 99 of this Act;” and

(b) after the definition of “local authority” there were added—

“and

“traffic officer” means an individual designated as such by, or under an authority given by, the Secretary of State in accordance with section 2 of the Traffic Management Act 2004.”

(3) Section 102 (Charges for removal, storage and disposal of vehicles), as so applied, shall have effect as if—

(a) in paragraphs (b) and (c) of subsection (2) “, the Secretary of State” were inserted after “the chief officer of a police force”;

(b) in subsection (4) “,the Secretary of State” were inserted both after “the Chief officer of a police force” and “the chief officer”;

(c) the following were inserted after subsection (7)—

“(7A) Any sum recovered under this section by the Secretary of State shall be paid into the Consolidated Fund.”;

and

(d) in subsection (8) in the definition of “appropriate authority” there were added the following—

“and

(c) in relation to a vehicle removed by, or by virtue of arrangements made by, a traffic officer in pursuance of regulations under section 99 of this Act means the Secretary of State;”.

Steps to be taken to find the owners of certain vehicles

14.—• For the purposes of section 101(3)(c) of the 1984 Act, the steps to be taken by the Secretary of State to find a person appearing to him to be the owner of the vehicle in a case to which that paragraph applies shall be such of the steps set out in paragraphs (2) to (7) as are applicable to the vehicle.

(1) If the vehicle carries a GB registration mark the Secretary of State shall ascertain from the records maintained by him in connection with any functions exercisable by him by virtue of the Vehicle Excise and Registration Act 1994⁽⁶⁾ the name and address of the person by whom the vehicle is kept and used;

(2) Where the vehicle carries a GB registration mark and the Secretary of State is unable to ascertain the name and address of person by whom the vehicle is kept and used he shall give to;

(a) the chief officer of the police force in whose area the vehicle appeared to have been abandoned the specified information and a description of the place of abandonment; and

(b) HP Information Ltd the specified information;

and shall enquire whether they can make any enquiries to find the owner of the vehicle.

(3) If the vehicle does not carry a GB registration mark but carries a mark indicating registration in Northern Ireland the Secretary of State shall give to:

(a) the chief officer of the police force in whose area the vehicle appeared to have been abandoned the specified information and a description of the place of abandonment; and

(b) the Secretary of State for Transport (unless he is the Secretary of State for Transport) the specified information and a description of the place of abandonment; and

(c) HP Information Ltd the specified information.:

and shall enquire whether they can make any enquiries to find the owner of the vehicle.

(4) If the vehicle does not carry a GB registration mark but carries a mark indicating registration in the Republic of Ireland, the Secretary of State shall give to:

⁽⁶⁾ 1994 c.22.

- (a) the chief officer of the police force in whose area the vehicle appeared to have been abandoned the specified information and a description of the place of abandonment; and
- (b) the Secretary of State for Transport (unless he is the Secretary of State for Transport) the specified information and a description of the place of abandonment;

and shall enquire whether they can make any enquiries to find the owner of the vehicle..

(5) If the vehicle does not carry a GB registration mark but carries a mark indicating registration in the Channel Islands, the Isle of Man or any country not mentioned in paragraphs 4 or 5, the Secretary of State shall give to:

- (a) the chief officer of the police force in whose area the vehicle appeared to have been abandoned the specified information and a description of the place of abandonment; and
- (b) HP Information Ltd the specified information;

and shall enquire whether they can make any enquiries to find the owner of the vehicle.

(6) If the vehicle does not carry a GB registration mark or any other registration mark, the Secretary of State shall apply to the chief officer of the police force and the local authority in whose area the vehicle appeared to have been abandoned, giving the specified information and a description of the place of abandonment and enquiring whether the chief officer or that authority has any information as to who is the owner of the vehicle.

(7) For the purposes of paragraph (7) “local authority” means the council of a county, a metropolitan district or a London borough, or the Common Council of the City of London or an authority established under section 10 of the Local Government Act 1985⁽⁷⁾.

(8) Nothing in the foregoing provisions of this regulation shall require the Secretary of State to take any such step as is therein mentioned if he has found a person who appears to him to be the owner of that vehicle and he has sent him a notice in the manner prescribed by regulation 15.

Manner of giving notice to the owner requiring removal of vehicle

15.—(1) The Secretary of State shall where he has found the name and address of a person who appears to him to be the owner of the vehicle, send a notice to that person:

- (a) setting out the specified information;
- (b) stating whether the vehicle has been removed from the place at which it appeared to have been abandoned, and if so to what place;
- (c) stating that if he is the owner of the vehicle he is required to remove the vehicle from the Secretary of State’s custody by a specified date; and
- (d) stating that the Secretary of State intends to dispose of the vehicle if it is not removed by the specified date.

(2) For the purposes of section 101(3)(c)(ii) of the 1984 Act, a notice requiring a person who appears to the Secretary of State to be the owner of a vehicle to remove the vehicle from his custody shall be given—

- (a) by delivering it to the person who appears to be the owner;
- (b) by leaving it at his usual or last known place of residence;
- (c) by sending it in a pre-paid registered letter, or by the recorded delivery service, addressed to him at his usual or last known place of abode; or
- (d) if the person who appears to be the owner is an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a pre-paid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(3) The notice shall be considered duly given:

- (i) in the case of a notice delivered personally, at the time of delivery;
- (ii) in the case of a notice left at the occupiers usual or last known place of residence, the day after leaving the notice at such place of residence;
- (iii) in the case of a notice sent by prepaid registered or recorded delivery post on the day it is signed for.

⁽⁷⁾ 1985 c.51.

Period during which owner may remove vehicle before it can be disposed of

16. For the purposes of section 101(3)(c)(ii) of the 1984 Act, the period during which a person on whom the notice referred to in regulation 15 has been served shall be required to remove the vehicle of which he appears to the Secretary of State to be the owner from his custody shall be 7 days from the day when that notice is duly given.

Information to be given relating to the disposal of a vehicle

17.—• For the purpose of section 101(7) of the 1984 Act, after a vehicle has been disposed of the Secretary of State shall give information relating to the disposal of the vehicle—

- (a) if the vehicle carried a GB registration mark, to
 - (i) the Secretary of State for Transport (unless he is that Secretary of State),
 - (ii) the chief officer of the police force in whose area the vehicle appeared to have been abandoned and
 - (iii) HP Information Ltd.;
- (b) if the vehicle did not carry a GB registration mark but carried a mark indicating registration in Northern Ireland, to
 - (i) the Secretary of State for Transport (unless he is that Secretary of State)
 - (ii) the Secretary of State for [Northern Ireland]
 - (iii) the chief officer of the police force in whose area the vehicle appeared to have been abandoned, and
 - (iv) HP Information Ltd.;
- (c) if the vehicle did not carry a GB registration mark but carried a mark indicating registration in the Republic of Ireland, to
 - (i) the Secretary of State for Transport (unless he is that Secretary of State),
 - (ii) the Commissioners of Customs and Excise,
 - (iii) the chief officer of the police force in whose area the vehicle appeared to have been abandoned and
 - (iv) HP Information Ltd.;
- (d) if the vehicle did not carry a GB registration mark but carried a mark indicating registration in the Channel Islands, the Isle of Man, or any country not mentioned in sub-paragraphs (a) to (c) of this paragraph, to
 - (i) the Commissioners of Customs and Excise and
 - (ii) the chief officer of the police force in whose area the vehicle appeared to have been abandoned;
- (e) if the vehicle did not carry a GB registration mark or any other registration mark, to
 - (i) the chief officer of the police force in whose area the vehicle appeared to have been abandoned and
 - (ii) the local authority in whose area the vehicle appeared to have been abandoned; and
- (f) in the case of any vehicle, to any person who appears to the Secretary of State to have been the owner of the vehicle immediately before it was disposed of.

(2) For the purposes of paragraph (1)(e)(ii), “local authority” means the council of a county, a metropolitan district or a London borough, or the Common Council of the City of London or an authority established under section 10 of the Local Government Act 1985⁽⁸⁾

(3) In this regulation “information relating to the disposal of a vehicle” means—

- (a) any information which is sufficient to relate the information now being given to any information previously given to the same person in respect of the removal, storage or disposal of the vehicle;
- (b) such of the specified information as has not been previously given to the same person in respect of the removal, storage or disposal of the vehicle; and

⁽⁸⁾ 1985 c.51.

- (c) information as to whether the vehicle was disposed of by destruction or by sale and if by sale the amount of the proceeds thereof.

Period during which owner may remove vehicle before it is disposed of

18. For the purposes of section 101(4) of the 1984 Act, the period during which a person who has satisfied the Secretary of State that he is the owner of a vehicle which is in his custody shall be permitted to remove it from his custody shall be the period commencing on the day when the Secretary of State became satisfied that he was the owner and ending on the expiration of the seventh day after that day, or at the time when the vehicle is disposed of, whichever is the later.

Signed by authority of the Secretary of State for Transport

[] 2008

Parliamentary Under Secretary of State,
Department for Transport

SCHEDULE 1

CERTAIN ENACTMENTS BY OR UNDER WHICH ARE IMPOSED PROHIBITIONS OR RESTRICTIONS ON THE WAITING OF VEHICLES ON ROADS

Regulations 3 and 5

1. Section 52 of the Metropolitan Police Act 1839 and section 22 of the local Act of the second and third year of the reign of Queen Victoria, chapter 94 (relating to the prevention of obstruction in streets in London).
2. Section 21 of the Town Police Clauses Act 1847 (relating to the prevention of obstruction in streets in England and Wales elsewhere than in London).
3. Section 2 of the Parks Regulation (Amendment) Act 1926 (authorising the making of regulations as to Royal Parks).
4. Section [22] of the Road Traffic Act [1972] (which makes it an offence to fail to conform to the indications given by certain traffic signs).
5. Section 1 of the 1984 Act (which authorises the making of orders regulating traffic on roads outside Greater London).
6. Section 6 of the 1984 Act (authorising the making of orders regulating traffic on roads in Greater London).
7. Section 9 of the 1984 Act (authorising the making of experimental traffic orders).
8. Section 12 of the 1984 Act (relating to experimental traffic schemes in Greater London).
9. Section 14 of the 1984 Act (which provides for the restriction or prohibition of the use of roads in consequence of the execution of works).
10. Section 16A of the 1984 Act (which provides for the restriction or prohibition of the use of roads in connection with the holding of certain special events).
11. Section 17 of the 1984 Act (authorising the making of regulations with respect to the use of special roads).
12. Section 25 of the 1984 Act (authorising the making of regulations for crossings for foot passengers).
13. Sections 35 and 45 to 49 of the 1984 Act (relating to parking places for vehicles).
14. Section 57 of the 1984 Act (relating to the provision of parking places in England and Wales for bicycles and motor cycles).
15. Sections 66 and 67 of the 1984 Act (which empower the police to place traffic signs relating to local traffic regulations and temporary signs for dealing with traffic congestion and danger).
16. Any enactment contained in any local Act for the time being in force and any byelaw having effect under any enactment for the time being in force, being an enactment or byelaw imposing or authorising the imposition of a prohibition or restriction similar to any prohibition or restriction which is or can be imposed by or under any of the enactments referred to in paragraphs 1 to 15.

SCHEDULE 2

**FORM OF NOTICE TO OCCUPIER OF LAND BEFORE REMOVING
ABANDONED VEHICLES**

Regulation 15

To: of

The (name of traffic officer)

Under section 99(3) of the Road Traffic Regulation Act 1984 the above-named traffic officer hereby gives you notice that they propose, in accordance with the Removal and Disposal of Vehicles by Traffic Officers (England) Regulations to remove the vehicle(s) described in column 2 of the Schedule from the land described in column 1 of the Schedule.

It appears to the traffic officer that you are the occupier of the land described in column 1 of the Schedule.

You may object in writing to the removal of the vehicle[s] listed in column 2 of the Schedule, within 15 days from the day when this notice is given to you. Your objection should be left at, or posted to, the Highways Agency's Vehicle Recovery Service Team, [Address to be inserted].

SCHEDULE

Column 1

Description of land where vehicle(s) is/are situated:

Column 2

Description of vehicle(s) which appear(s) to have been abandoned on that land:

(Signed)

(Date)

NOTES

1

This Notice is served under section 99(3) of the Road Traffic Regulation Act 1984. That section applies to "vehicles". A "vehicle" is defined in section 99(5) of that Act as meaning any vehicle, whether or not it is in a fit state for use on roads, and as including 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.

2

Under section 99(3) of the Road Traffic Regulation Act 1984 a traffic officer is not entitled to remove an abandoned vehicle from occupied land if the occupier objects to the proposal in the prescribed manner and within the prescribed period. The manner and period are prescribed by regulation 16 of the Removal and Disposal of Vehicles by traffic officers (England) Regulations 2008. That regulation requires an objection to be in writing and to be sent by post or addressed to the Highways Agency's Vehicle Service Recovery Team or left at their office. It prescribes 15 days from the day when the traffic officer's notice is given as the period during which the occupier can object.

EXPLANATORY NOTE

(This note is not part of the Regulations)

INTRODUCTION

These Regulations are made under sections 99, 101 and 103 of the Road Traffic Regulation Act 1984 and section 9 of the Traffic Management Act 2004 for the removal and disposal of vehicles by traffic officers mainly from roads for which the Secretary of State for Transport is the Highways Authority.

These Explanatory Notes have been prepared by the Department for Transport in order to assist the reader in understanding the Regulations. They do not form part of the Regulations and have not been endorsed by Parliament.

The notes need to be read in conjunction with the Regulations. They are not, and are not meant to be, a comprehensive description of the Regulations. So where a section or part of a section does not seem to require any explanation or comment, none is given.

TERRITORIAL EXTENT

These regulations only apply to England.

SUMMARY AND OVERVIEW OF THE REGULATIONS

Regulation 3 empowers a traffic officer in uniform to require the removal of a vehicle which has broken down or been parked obstructively or dangerously on a road for which the Secretary of State for Transport is the traffic authority, or contrary to any statutory prohibition contained in or having effect under any enactment specified in the Schedule 1.

Traffic officers may direct where the vehicle can or cannot be moved to. The person in charge of the vehicle should when requested to remove the vehicle remove it or make arrangements to remove it as soon as possible.

Regulation 4 empowers a traffic officer in uniform to remove or arrange for the removal of a vehicle which has not been removed by the person in charge of the vehicle as was required by the traffic officer under Regulation 3, or which has been abandoned on a road for which the Secretary of State is the traffic authority. The abandoned vehicles removed by the traffic officer will be handed over by him to the Secretary of State for Transport who will hold it in safe custody. Any broken down vehicles removed by a traffic officer will be removed to a place he deems safe.

Regulation 5 empowers a traffic officer in uniform to require the removal of a vehicle which has broken down or been parked obstructively or dangerously on a road for which the Secretary of State for Transport is not the traffic authority, or contrary to any statutory prohibition contained in or having effect under any enactment specified in the Schedule 1. This power can only be exercised where the traffic officer is acting on the direction of the traffic authority for the road or of the chief officer of police for the area and can only require removal of the vehicle in order to prevent it causing a obstruction or a danger to road users on roads for which the Secretary of State for Transport is the traffic authority.

Traffic officers may direct where the vehicle can or cannot be moved to. The person in charge of the vehicle should when requested to remove the vehicle remove it or make arrangements to remove it as soon as possible.

Regulation 6 empowers a traffic officer in uniform to remove or arrange for the removal of a vehicle which has not been removed by the person in charge of the vehicle as was required by the traffic officer under Regulation 3, or which has been abandoned on a road for which the Secretary of State is not the traffic authority. This power can only be exercised where the traffic officer is acting on the direction of the traffic authority for the road or of the chief officer of police for the area and can only require removal of the vehicle in order to prevent it causing a obstruction or a danger to road users on roads for which the Secretary of State for Transport is the traffic authority.

The abandoned vehicles removed by the traffic officer will be handed over by him to the Secretary of State for Transport who will hold it in safe custody. Any broken down vehicles removed by a traffic officer will be removed to a place he deems safe.

Regulation 8 empowers a traffic officer to remove abandoned vehicles from private property adjoining a relevant road.

Regulation 9 provides for the manner in which traffic officers must give notice to occupiers of land on whose land there is an abandoned vehicle which the traffic officer intends to remove. The form in which this notice must be given is set out in Schedule 2.

Regulation 10 sets out the manner in which an occupier of land can object to the removal of the abandoned vehicle that is on his land which the traffic officer intends to remove.

Regulation 11 permits a traffic officer to determine whether the method being used by a person to remove a vehicle is safe and if it isn't to agree an alternative method of removal with that person.

Regulation 13 makes consequential amendments to sections 100, 101 and 102 of the Road Traffic Regulations Act 1984 in relation to the removal of vehicles by traffic officers.

Regulation 14 sets out the steps to be taken to find the owners of vehicles that have been removed by traffic officers and delivered to the Secretary of State.

Regulation 15 sets out the information that is to be provided in a notice to be sent to the owner of the vehicle informing him that he should remove the vehicle and if it is not removed by a certain date that the vehicle will be disposed of by the Secretary of State..

Regulation 17 makes provision for information that has to be provided and to whom it should be provided regarding disposal of the vehicle.

Charges relating to the removal, storage and disposal of vehicles are prescribed in the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 1989⁽⁹⁾.

⁽⁹⁾ S.I. 1989/744.

ANNEX B

PARTIAL REGULATORY IMPACT ASSESSMENT: REMOVAL AND DISPOSAL OF VEHICLES ON THE STRATEGIC ROAD NETWORK

1. Title

The introduction of legislation to give Traffic Officers powers to remove vehicles and the Secretary of State for Transport the power to store and dispose of abandoned vehicles on the Strategic Road Network in England.

2. Purpose and intended effect of the measure

2(a) Objective

Introduce the Removal and Disposal of Vehicles by Traffic Officers Regulations 2008 ('the Regulations') to provide Traffic Officers with removal powers similar to those which the Police currently have. The Regulations will also provide the Secretary of State with storage and disposal powers for abandoned vehicles.

This will fulfil two key objectives:

- To realise the full benefits of the Highways Agency and Association of Chief Police Officers (ACPO) Roles and Responsibilities Review, by enabling Traffic Officers to undertake and take operational responsibility for vehicle removals from the Strategic Road Network¹⁰ (and from roads affecting the Strategic Road Network) and the Secretary of State for Transport to store and dispose of abandoned vehicles; and
- To free up Police time to focus on core activities.

2(b) Background

In 2002/ 3 a review of roles and responsibilities was carried out by the Highways Agency and the ACPO. The review concluded that certain responsibilities should be realigned to reflect respective organisational priorities. As part of this realignment Traffic Officers appointed by the Secretary of State for Transport were introduced to deal with those responsibilities on the Strategic Road Network that would transfer from the Police to the Highways Agency.

¹⁰ The Strategic Road Network comprises of most motorways and major trunk roads (usually referred to as 'A' roads) in England and are roads for which the Secretary of State for Transport is the highway authority.

The review concluded that certain activities carried out by the Police should, in future, be undertaken by the Highways Agency. One of these activities was dealing with abandoned and broken down vehicles¹¹.

Following the review, the Traffic Management Act 2004 was introduced. Part 1 of this Act created Traffic Officers and enabled them to undertake certain traffic management tasks. The Act provides Traffic Officers with statutory powers, similar to those of the Police, to stop and direct traffic and to place and operate temporary traffic signs for the purposes of:

- maintaining or improving the movement of traffic;
- preventing or reducing congestion or disruption to the movement of traffic;
- avoiding danger to persons or other traffic; and
- preventing damage to anything near or on a road.

At the time the Traffic Management Act 2004 was being developed it was envisaged that Traffic Officers and the Secretary of State would in future take operational responsibility for the removal and disposal of certain vehicles. As a result, Section 9 was included, which permits for regulations to be made under Section 99 of the Road Traffic Regulation Act 1984 for this purpose. In addition, consequential amendments can be made in relation to Sections 100 to 102 of the Road Traffic Regulation Act 1984, to enable the making of regulations which address the storage and disposal of abandoned vehicles that have been removed by Traffic Officers. This document addresses those intended regulations.

Current Police removal and disposal powers

The Police have statutory powers to remove and dispose of vehicles by virtue of Sections 99 to 102 of the Road Traffic Regulation Act 1984 and the Removal & Disposal of Vehicles Regulations 1986. The Police will retain these powers and the Regulations will not materially alter any existing regulations.

Although there is only limited data available it is estimated that there are around 8,000 vehicles that are removed from motorways in England under statutory powers each year. It is also estimated that the Police assist a further 70,000 motorists who are not able to make their own arrangements for recovery and an additional 600,000 removals are arranged privately.

General duties of the Secretary of State as a Highway Authority

The Secretary of State has a statutory duty, as a highway authority under Section 130 of the Highways Act 1980, to protect the rights of the public to use and enjoy any highway for which they are responsible. As a highway authority, the Secretary of State also has a

¹¹ All references to abandoned vehicles include those that appear to be abandoned. All references to broken down vehicles includes broken down vehicles that are accident damaged.

common law duty to prevent and remove obstructions. Section 333 of the Highways Act 1980 preserves that duty and the right to remove an obstruction. The Secretary of State, as a consequence of these duties, has a responsibility to clear the highways of obstructions and allow the free flow of traffic.

Current Traffic Officer removal and disposal powers

The powers given to Traffic Officers under the Traffic Management Act 2004 do not themselves cover the removal and disposal of abandoned and broken down vehicles from the Strategic Road Network. The Highways Agency relies on Police officers to remove such vehicles using their statutory powers.

2(c) Rationale for Government Intervention

A recommendation of the Roles and Responsibilities Review was that Traffic Officers would take operational responsibility for vehicle removal and disposal. However, the Highways Act 1980 and the Traffic Management Act 2004 do not give the Secretary of State or Traffic Officers adequate powers to remove and dispose of vehicles effectively (for example, dealing with abandoned vehicles) on the Strategic Road Network without involving the Police.

The Traffic Management Act 2004 gives the Secretary of State the power to make regulations under the Road Traffic Regulation Act 1984 relating to the removal of vehicles by Traffic Officers and for consequential amendments to be made to sections 100-102 to enable the Secretary of State to store and dispose of vehicles removed by Traffic Officers. By giving Traffic Officers and the Secretary of State powers to remove, store and dispose of vehicles, it will help ensure the safety of other road users by dealing with vehicles that need to be removed. This will also free up Police time to focus on core activities, such as managing criminal activity and detection and enforcement of road traffic offences.

3. Consultation

3(a) Public Sector

The options reviewed in this document have been developed by the Department for Transport and its Executive Agencies in close consultation with the Home Office, ACPO and recovery associations.

Stakeholders to be consulted include:

- Home Office
- The Association of Chief Police Officers

3(b) Public Consultation

A public consultation will involve representative stakeholder groups that are likely to be affected. It will be published on the Highways Agency website and responses can be sent via post or email.

Stakeholders to be consulted include:

- Association of Vehicle Recovery Operators
- Institute of Vehicle Recovery
- Road Haulage Association
- Freight Transport Association

A full list of consultees is provided in **Annex E**.

This Regulatory Impact Assessment will form part of a full and formal public consultation.

4. **Options**

Option 1: Do nothing

This option means the Police would continue to remove, store and dispose of vehicles from the Strategic Road Network, under Sections 99 to 102 of the Road Traffic Regulation Act 1984 and the Removal and Disposal of Vehicles Regulations 1986.

Without introducing changes, Traffic Officers could not remove vehicles from the Strategic Road Network, and the Police would continue to spend time removing vehicles rather than focusing on core activities.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

The Secretary of State as a highway authority has an existing duty to keep the highway free from obstructions under Section 333 of the Highways Act 1980. Traffic Officers acting on behalf of the Secretary of State would remove broken down and accident-damaged vehicles from live lanes to the nearest appropriate place (usually, this would be the hard shoulder), at no cost to the owner of the vehicle.

Once a vehicle had been moved to the nearest appropriate place, if the owner or driver is present they could make their own arrangements for recovery. Anyone unable to make their own recovery arrangements would be dealt with by the Police under their statutory powers for removal and disposal. This would also apply in relation to abandoned vehicles.

Option 3: Introduce new legislation

This option involves introducing the Regulations to give Traffic Officers the powers to remove vehicles from the Strategic Road Network (and from roads affecting the Strategic Road Network) and the Secretary of State for Transport powers to store and dispose of abandoned vehicles so removed.

These powers would be similar to powers the Police currently have under Section 99 to 102 of the Road Traffic Regulation Act 1984 and the Removal and Disposal of Vehicles Regulations 1986.

5. Business Sectors Affected

None of the options are likely to have a significant impact on any business sector. The business sector most affected by these proposals is the vehicle recovery industry.

Option 1: Do nothing

This option would maintain the status quo and it is unlikely to significantly affect any business sectors.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

As with Option 1, the Police would continue to deal with the removal of vehicles from the hard shoulder as well as all abandoned vehicles. Consequently, this option will have no affect on existing Police contractual arrangements with vehicle recovery operators.

Option 3: Introduce new legislation

The legislation that is being introduced is no more stringent than existing regulations under which the Police operate. The introduction of the Regulations should not have any overall impact on businesses over and above the existing legislation. The key change in the Regulations is that Traffic Officers will also have the power to request and enforce a statutory removal, and the Secretary of State will have the power to store and ultimately dispose of abandoned vehicles.

As a result of Traffic Officers and the Secretary of State for Transport establishing new powers, the overall numbers of vehicles removed from the Strategic Road Network is expected to remain broadly the same. The main impact on businesses relates to a proportion of abandoned and broken down vehicles, their storage and disposal that will, in future, be dealt with by Traffic Officers and by the Secretary of State for Transport, rather than the Police.

6. Public sectors affected

The areas of the public sector most affected by the change are the Traffic Officers, the Department for Transport and the Police.

6 (a) Traffic Officers and the Department for Transport

Option 1: Do nothing

By maintaining the status quo Traffic Officers would continue to be unable to remove abandoned and broken down vehicles efficiently and the Police would continue to use their statutory powers and recovery arrangements.

There is a risk that if the Police refocus resources it could have a detrimental affect on the removal of vehicles from the motorways in England.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

Although the Secretary of State as a highway authority may remove obstructions from the highways, it is not the most effective way of dealing with vehicle removals. The Police would continue to use their statutory powers for the removal of abandoned vehicles and vehicles on the hard shoulder.

Option 3: Introduce new legislation:

If the Regulations are introduced, the Highways Agency will need to undertake a number of activities to secure the capability to remove, store and dispose of vehicles. The main infrastructure is already in place with the establishment of Traffic Officers patrolling the motorways. Additional activity is likely to include:

- A contract or contracts to support Traffic Officers and the Secretary of State for Transport in the removal, storage and disposal of vehicles under these Regulations
- Additional internal resource to manage and administer the contract or contracts
- Further guidance and training of Traffic Officers in the use of the new powers.

This will lead to some additional costs to the Highways Agency. Additional costs will be funded through existing allocations, supplemented by relevant statutory charges that would apply to vehicles removed under these new Regulations.

6 (b) The Police

Option 1: Do nothing

This option assumes that the Police will continue to remove and dispose of vehicles.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

This option will have no impact on the Police.

Option 3: Introduce new legislation

By providing the Secretary of State and Traffic Officers with new removal and disposal powers, Traffic Officers would be able to deal with a large proportion of vehicles that need to be removed from the Strategic Road Network. This will mean that the Police will be free to focus on core activities. It is difficult to predict how much of an impact it will have on the Police. However, figures indicate that the Police currently remove or assist in the removal of around 75,000 vehicles from the Strategic Road Network each year, suggesting that there will be a significant time saving.

The Police will continue to be involved with the removal of vehicles on local authority roads, A roads and also with serious incidents on the motorways in England.

7. Additional Sectors Affected

The General Public

Option 1: Do nothing

Under existing arrangements, there would be no significant impact on the general public.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

Members of the public that have been involved in an accident or have broken down in a live lane will be removed from a live lane to the nearest appropriate place. However, the owner or driver will still need to arrange for the vehicle to be removed from the hard shoulder.

Further consideration would be needed to identify a satisfactory solution for large goods vehicles, as it may not be appropriate to move a large vehicle and its load to the hard shoulder.

Option 3: Introduce new legislation

By implementing Option 3 there will be little impact on the public other than that the body carrying out removal and disposals will change.

The Traffic Officer Service can provide a nationally consistent approach, leaving the Police free to focus on managing criminal activity and detection and enforcement of road traffic offences. Traffic Officers will have the powers to deal with vehicle removals effectively and, as they now patrol most motorways in England, they are best placed to respond to incidents quickly.

8. Benefits

Option 1: Do nothing

There is no long-term benefit in doing nothing.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

Under this option live lanes would continue to be cleared of obstructions. However, this would only provide benefit where vehicles are obstructing live lanes. Abandoned vehicles and broken down vehicles on the hard shoulder, would continue to be dealt with by the Police under their statutory powers.

Option 3: Introduce new legislation

By providing Traffic Officers and the Secretary of State for Transport with similar powers to those which the Police have, the removal and disposal function can be shared. The power to remove broken down and abandoned vehicles from the Strategic Road Network will ensure effective removal of these vehicles which will improve safety for other road users. Allowing Traffic Officers to take operational responsibility for broken down and abandoned vehicles will free up Police time and resources allowing them to focus on core activities.

9. Costs

9(a) Compliance costs for businesses, charities and voluntary organisations

The Regulations will not add to compliance costs for businesses, charities and voluntary organisations.

9(b) Other costs

Option 1: Do nothing

There would be no direct costs on vehicle recovery operators or the public in general under the do-nothing scenario.

Option 2: The Highway Authority will continue to remove or arrange the removal of obstructions (including vehicles) from live lanes on the Strategic Road Network to the nearest appropriate place

There would be no direct costs on vehicle recovery operators or the public in general under this scenario.

Option 3: Introducing new legislation

There would be no additional costs falling upon the recovery industry as a result of the introduction of the Regulations.

9(c) Costs for a typical existing business

For vehicle recovery operators, business and administration costs for implementing a new contract should not be significantly different from that of implementing a Police contract. It is likely, however, that the Highways Agency contracts will have different performance targets and measures and different payment mechanisms. The overall effect is likely to be neutral for the vehicle recovery operators.

Vehicle recovery operators will also be expected to implement new training standards that are being agreed with the recovery industry independently. These represent a cost and commitment that the industry will make, or has made, irrespective of the Regulations.

10. Summary of Options

Option 1 is unsuitable as it does not make any improvements to the current situation or help achieve the objectives set out in section 2 (a).

Option 2 offers only a partial solution as it only allows Traffic Officers to deal with vehicles in live lanes. This is a small proportion of the total number of vehicles that need to be removed from the Strategic Road Network. This option also introduces double handling of these vehicles as the obstruction (i.e. vehicle) that has been moved once to the nearest appropriate place, may have to be moved again.

Option 3 is the most suitable option as it enables Traffic Officers to require the removal and, where appropriate, remove vehicles. Although disposal powers are limited, it also allows the Secretary of State to store and dispose of abandoned vehicles.

The Secretary of State would also be able to recover prescribed charges for any vehicles removed, stored or disposed under this option.

11. Equity and fairness

The legislation does not favour any particular type of road user above others. It preserves customer choice, presently imbued in all road users, to have their vehicle

removed by a recovery organisation or suitable person of their choice, except in prescribed circumstances as laid out in the Regulations.

The circumstances where customer choice necessarily has to be set aside by Traffic Officers would not alter the existing practices employed by the Police service.

The Regulations do not have any racial equality impacts nor is there any significant impact on rural areas.

12. Consultation with small businesses: The Small Firms Impact Test

The Regulations do not impose any new or increased burden on the wider recovery industry. We therefore have not consulted small businesses separately.

13. Competition assessment

The Regulations are not expected to have any direct implications for competition.

To secure access to current Police schemes, successful vehicle recovery operators are obliged to meet target response times to a scene of a recovery requirement and to adhere to standards as relate to training, provision of personal protective equipment, availability of recovery vehicles and equipment carried and standard of premises. A framework for these standards is to be found in the ACPO Vehicle Recovery Group Standard Specification published in May 2000. These standards have been extended through time with the publication of improved industry standards and guidance from the British Standards Institute (BSI). The Highways Agency will, as a minimum, utilise these standards to ensure competitiveness for any future contracts it awards relating to recovery.

The majority of organisations in this industry are vehicle recovery operators. The completion of the Competition Filter Test indicates that the effect of the Regulations, and the contracts that will arise following implementation, will have limited effect on competition in this sub-sector.

14. Enforcement and sanctions

The Regulations do not introduce any new offences, so the issue of sanctions does not arise. It merely adds Traffic Officers and the Secretary of State to those persons/bodies that may exercise removal and disposal powers as they relate to vehicles.

15. Monitoring and review

Monitoring will take place as to the impact that the use of the Regulations has on vehicle removals on the Strategic Road Network and roads affecting it. Furthermore, Traffic Officers will be surveyed at prescribed frequencies to ensure they fully understand the Regulations and its application.

16. Recommendation

The Highways Agency recommends Option 3 to allow Traffic Officers to take operational responsibility for the removal of vehicles on the Strategic Road Network and for the Secretary of State to store and dispose vehicles removed by Traffic Officers and to allow the Police to focus on their core activities.

17. Contact point

In relation to this partial Regulatory Impact Assessment, the contact point within the Highways Agency is:

Postal address:

Kelly Luther
National Vehicle Recovery Project
Highways Agency
Woodlands
1st Floor
Manton Lane
Bedford
MK41 7LL

Email address:

NVRPconsultation@highways.gsi.gov.uk

ANNEX C

CONSULTATION RESPONSE FORM

THE REMOVAL, STORAGE AND DISPOSAL OF VEHICLES BY TRAFFIC OFFICERS AND THE SECRETARY OF STATE FOR TRANSPORT

Please complete this pro-forma and send to the address below or respond via the Highways Agency's website:

Kelly Luther
National Vehicle Recovery Project
Highways Agency
Woodlands
1st Floor
Manton Lane
Bedford
MK41 7LW

Email: NVRPconsultation@highways.gsi.gov.uk

PART 1 - Information about you

Name	
Address	
Postcode	
Email	
Company Name or Organisation (if applicable)	
Please tick one box from the list below that best describes you/ your company or organisation.	
<input type="checkbox"/>	Small to Medium Enterprise (up to 50 employees)
<input type="checkbox"/>	Large Company
<input type="checkbox"/>	Representative Organisation

<input type="checkbox"/>	Trade Union
<input type="checkbox"/>	Interest Group
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Central Government
<input type="checkbox"/>	Police
<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	Other (please describe):
<p>If you are responding on behalf of an organisation or interest group, how many members do you have and how did you obtain the views of your members:</p>	
<p>If you would like your response or personal details to be treated confidentially please explain why:</p>	

PART 2 - Your comments

1. Do you have any comments on the proposal to give <u>Traffic Officers removal powers</u> , as set out in the Regulations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please give your comments:		

2. Do you have any comments on <u>the Secretary of State having storage and disposal powers</u> , as set out within the Regulations?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
If yes, please give your comments:		

3. If the Regulations were enacted, would you have any <u>additional concerns</u> in regards to the removal powers provided to Traffic Officers or storage and disposal powers provided to the Secretary of State?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
--	------------------------------	-----------------------------

If yes, please give your comments:

If you have any other general comments that you would like to make concerning this consultation, please give them here:

ANNEX D

THE CONSULTATION CRITERIA

The consultation is being conducted in line with the Code of Practice on Consultation. The Criteria are listed below. The full version of the code can be accessed at <http://www.cabinetoffice.gov.uk/regulation/documents/consultation/pdf/code.pdf>

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your departments' effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

If you feel the consultation does not satisfy these criteria please contact:

Postal Address:

Monica Brown
Highways Agency Consultation Co-ordinator
Zone2/09K Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6HA

Email address:

monica.brown@highways.gsi.gov.uk

(e-mail name should be lower case)

Telephone:

0117 372 8220

ANNEX E

LIST OF THOSE CONSULTED

Individuals or bodies who have been sent this consultation document:

Automobile Association (AA)	Freight Transport Association (FTA)
Association of Chief Police Officers (ACPO) (Vehicle Recovery Group)	FTA Scotland
ACPO Scotland	Government Offices (GO):
Ambulance Services Association (ASA)	GO East
Association of British Drivers (ABD)	GO East Midlands
Association of British Insurers (ABI)	GO for the English Regions
Association of Police Authorities	GO London
Association for Road Traffic Safety and Management (ARTSM)	GO North East
Association of Vehicle Recovery Operators (AVRO)	GO North West
BRAKE	GO South East
Britannia Rescue	GO South West
British Motorcyclists Federation (BMF)	GO West Midlands
British Transport Police (BTP)	GO Yorkshire and the Humber
British Vehicle Rental & Leasing Association	Green Flag
Central Motorway Police Group (CMPG)	Guild of British Coach Operators (GBCO)
Chartered Institute of Logistics and Transport (CILT)	Health and Safety Executive (HSE)
Confederation of British Industry (CBI)	HSE Scotland
County Surveyors Society (CSS)	Heavy Transport Association (HTA)
Department of Communities and Local Government (DCLG)	Home Office (HO)
Department for Environment, Food and Rural Affairs (DEFRA)	House of Commons Members Library
Environmental Transport Association (ETA)	Institute of Advanced Motorists (IAM)
Europ Assistance Group	Institute of Highways and Transportation (IHT)
Fire Officers Association (FOA)	Institute of Road Safety Officers (IRSO)
	Institute of Transport Administration (ITA)
	Institute of Vehicle Recovery (IVR)
	Local Authority Road Safety Officers Association (LARSOA)
	Local Government Association (LGA)

London Association of Recovery Operators (LARO)	SURVIVE
Mobilise	Transport 2000
Motorcycle Rider Training Association (MRTA)	Transport Association
National Association of Local Councils (NALC)	Transport for London
National Express Coaches (NEC)	Transport Research Laboratory
National Motorcycle Council	Transport Scotland
Northern Ireland Executive (NIE)	United Road Transport Union
Parliamentary Advisory Council for Transport Safety (PACTS)	Welsh Local Government Association
Police Federation	Welsh Assembly
PCS	
Prospect	
RAC	
RAC Foundation	
Road Haulage Association (RHA)	
Road Operators Safety Council (ROSC)	
Road Rescue Recover Association (RRRA)	
Road Safety Scotland	
Road Safety Wales	
Royal Society for the Prevention of Accidents (RoSPA)	
Scottish Executive	
Scottish Police Federation	

List of garages:

Avon

Avon Commercial Recovery

Bedfordshire

Bedfordshire Recovery

Berkshire

Wessex Recovery Ltd

Buckinghamshire

OnTime (Courts Iver) Rescue and Recovery

Cambridgeshire

Manchetts Rescue & Recovery

Cheshire

Autolift Recovery

Cleveland

Turners of Sedgfield Ltd

Cornwall

Cawsey Commercials Ltd

County Durham

Hogarth Coachworks & Recovery Ltd

Cumbria

Auto Recoveries (Carlisle)

Derbyshire

F1 Recovery

Devon

Olympus 24 Hour Recovery

Dorset

Ashley Wood Recovery Ltd

East Riding of Yorkshire

Willinghams Recovery Ltd

East Sussex

C.S.V Saunters

Essex

V.G Nash & Son

Gloucestershire

R & W Recovery Repairs

Greater London

Cedars Assist

Greater London (cont)

Midway Recovery Ltd

Greater Manchester

D Bardsley Garage

Greater Manchester (cont)

OB Truck Services

Hampshire

HMS Total Vehicle Recovery Ltd

Herefordshire

Saffrons Cross Garage

Hertfordshire

Hertfordshire Recovery

Kent

Neil Yates Recovery Ltd

Lancashire

Abacus Recovery

Leicestershire

Kirkland Recovery Ltd

Lincolnshire

Tears Recovery

Merseyside

Phoenix Recovery Services

Middlesex

C Spearing Commercials Ltd

Norfolk

Norfolk Recovery Ltd

Northamptonshire

A E S Rescue Services

Northumberland

R. S Johnson Recovery

North Yorkshire

Topcliffe Crane & Recovery

Nottinghamshire

H.C.R Commercial Repair Co.

Oxfordshire

Isis Rescue & Repair

Shropshire

Astley Recovery Services

Somerset

John Snelgrove Ltd

South Yorkshire

Eurofleet Maintenance

Staffordshire

Staffs Rescue

Suffolk

Roy Humphrey Group

Surrey

All Recovery & Repair Ltd

Tyne & Wear

C.F Motoring Services Ltd

Warwickshire

Swift Recovery

West Midlands

Fillongley Garage

West Midlands (cont)

J. K Autos

West Sussex

W & H Commercials

West Yorkshire

David Blockley & Son

Wiltshire

Griffins Rescue

Worcestershire

Eurotow Recovery & Repair

