

**EXPLANATORY MEMORANDUM TO
THE VEHICLE EXCISE DUTY (IMMOBILISATION, REMOVAL AND
DISPOSAL OF VEHICLES) (AMENDMENT) REGULATIONS 2008**

2008 No. 2266

1. This explanatory memorandum has been prepared by the Driver and Vehicle Licensing Agency (DVLA) on behalf of the Department for Transport and is laid before Parliament by Command of Her Majesty. It contains information for the Joint Committee on Statutory Instruments.

2. Description

- 2.1 This instrument provides that, unless within the curtilage or vicinity of a dwelling, a stationery vehicle may be immobilised, removed or impounded where there is reason to believe that an offence in respect of using or keeping an unlicensed vehicle under S.29 (1) of the Vehicle Excise and Registration Act 1994 (VERA) is being committed in relation to it. There is also power to enter so as to immobilise or remove a vehicle.
- 2.2 It also provides for increases in the prescribed charges for the release, removal and storage of vehicles and for the surety payment.

3. Matters of special interest to the Joint Committee on Statutory instruments

- 3.1 The prescribed charges and surety payments were last increased in 2001. The proposed increases are not related to the general rate of inflation, but are set to recover costs in the case of prescribed charges and are in lieu of vehicle excise duty (VED) in the case of surety payments. Further explanation is provided in paragraphs 7.5 and 7.6.

4 Legislative Background

- 4.1 The instrument amends the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997. There are no current plans to consolidate the regulations.
- 4.2 The amendments relating to immobilisation, removal or impounding of vehicles are consequent to amendments to S.29 of and Schedule 2A to VERA made by S.145 of and Schedule 45 to the Finance Act 2008.

5. Territorial Extent and Application

- 5.1 This instrument applies throughout the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 The Chancellor in his Budget statement announced new powers to clamp or impound unlicensed vehicles irrespective of whether they are parked on a public road or elsewhere.
- 7.2 If the current keeper of an unlicensed vehicle is not properly recorded on the DVLA register the only recourse is to clamp or impound the vehicle. The policy intention is to prevent evaders of vehicle excise duty from using off-road areas such as unadopted roads, commons, public car parks or roads maintained by Housing Associations to place themselves beyond the reach of the enforcement authorities.
- 7.3 As these areas are off the public road it will still be possible to make a Statutory Off Road Notification (SORN) instead of licensing. This measure will therefore force those who are not properly registered with DVLA to submit their details either through licensing or making a SORN.
- 7.4 It will not be possible to take action against vehicles parked in areas associated with a dwelling, such as garages or driveways so there will be no invasion of a homeowner's privacy.
- 7.5 The amendments to increase charges are based on the current costs to Government of operating the wheel clamping contract. It cost the Driver and Vehicle Licensing Agency approximately £18.1m to operate the wheel clamping contract in 2007/08 (costs being limited to the contract value). In that year the Agency recovered approximately £7m for HM Treasury. DVLA has improved the cost effectiveness of its wheel clamping operation so that the unit cost has fallen, but even given this there is still a loss per vehicle. The increased charges are needed to partially close this funding gap. The increased charges will still not recover the full costs of the wheel clamping contract. Were they to do so, the high costs might deter offenders from reclaiming their vehicles.
- 7.6 The surety charges are paid in lieu of VED and are recoverable on production of a vehicle licence. Therefore the rates for surety payments are linked to current rates of VED with appropriate adjustments and rounding to ensure they are proportionate, reasonable and easy to apply.

8 Impact

- 8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. Only those who fail to meet their legal obligation to license their vehicles or make a statutory Off Road Notification will be affected. For the same reasons it was not considered necessary to conduct a public consultation.

9 Contact

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