

**EXPLANATORY MEMORANDUM TO**  
**THE REMOVAL AND DISPOSAL OF VEHICLES (AMENDMENT) (ENGLAND)**  
**REGULATIONS 2021**

**2021 No. 461**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by The Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument will amend an error in the Removal and Disposal of Vehicles Regulations 1986, SI No. 183, (“the 1986 Regulations”) so as once again to empower civil enforcement officers (CEOs) to remove vehicles from a road in a civil enforcement area for parking contraventions in England following the issue of a penalty charge notice (PCN).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England only.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

6.1 Regulation 5C of the 1986 Regulations empowers CEOs to remove a vehicle from a road in a civil enforcement area for parking contraventions in England after the CEO has in accordance with regulation 9 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, SI No. 3483, (“the 2007 Regulations”) fixed a PCN to the vehicle or handed such a notice to the person appearing to them to be in charge of the vehicle.

6.2 Regulation 9 of the 2007 Regulations, as originally drafted, allowed a PCN to be served on a vehicle situated on a road or off-road. However, those regulations were amended by the Civil Enforcement of Parking Contraventions (England) General

(Amendment No. 2) Regulations 2015, SI No. 1001, which substituted regulations 9 and 9A for the existing regulation 9. The effect is to distinguish between PCNs served by a CEO for off-road contraventions (regulation 9) and those served by a CEO for contraventions on a road (regulation 9A). At the time, the need for a consequential amendment to regulation 5C of the 1986 Regulations was overlooked.

- 6.3 The result of this oversight is that from 1st April 2015 the power in the 1986 Regulations for councils to remove vehicles that have been issued PCNs for on-road contraventions was unintentionally removed. This instrument will rectify the defective legislation and restore Parliament's intention by amending regulation 5C(1)(b) of the 1986 Regulations to substitute for a reference to regulation 9 a reference to regulation 9A of the 2007 Regulations. This will have the effect of once again empowering a CEO to remove a vehicle that has been served a PCN for an on-road parking contravention in a civil enforcement area in England.

## **7. Policy background**

### *What is being done and why?*

- 7.1 When the Civil Enforcement of Parking Contraventions (England) General (Amendment No. 2) Regulations 2015 were made, with the purpose of limiting the use of cameras for parking enforcement, the need for a consequential amendment to regulation 5C of the 1986 Regulations was overlooked. This had the effect of inadvertently removing the power of councils to remove vehicles parked in contravention on roads in civil enforcement areas in England.
- 7.2 This is an important tool for local authorities in addressing anti-social parking. Where vehicles are parked in contravention there may be a need to remove them if, for example, they are blocking a disabled parking bay or a loading bay or are parked on yellow lines with implications for congestion and road safety. Without the power to remove vehicles in these cases the statutory network management duty of the local traffic authority may be frustrated.
- 7.3 This instrument will restore Parliament's intention and re-establish the power of councils to remove vehicles parked on a road in contravention and so facilitate effective traffic management.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1 There are no plans to consolidate the legislation amended by this instrument.

## **10. Consultation outcome**

- 10.1 There is a requirement to consult representative organisations in section 134(2) of the Road Traffic Regulation Act 1984 (c .27). Accordingly, the Department has consulted with the Local Government Association and London Councils, these being the representative organisations of the local authorities who are directly affected by this instrument. Both organisations support the instrument and had no objections.

## **11. Guidance**

- 11.1 The Secretary of State's existing Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions offers advice on the removal of vehicles where councils have the power. <https://www.gov.uk/government/publications/civil-enforcement-of-parking-contraventions>.
- 11.2 Hard copies of this guidance can be obtained upon request using the contact details provided in paragraph 15.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the impact is only on local authorities. Furthermore, the instrument does not introduce a new power but, rather, gives back a power that was inadvertently lost. This power is elective; councils are not obliged to use the power but may do so where they identify a traffic management benefit and in those circumstances legislation provides for charging for the recovery and storage of vehicles.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 This instrument does not relate to business activity. There are no plans to review the legislation. The powers apply to local authorities only and are not new to them. The instrument re-establishes the legal basis for vehicle removals, a practice with which local authorities with civil parking enforcement powers are already familiar.

## **15. Contact**

- 15.1 Keith Hughes at the Department for Transport, Telephone: 07748586532 or email: [keith.hughes@dft.gov.uk](mailto:keith.hughes@dft.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.