

EXPLANATORY MEMORANDUM TO
THE REMOVAL, STORAGE AND DISPOSAL OF MOTOR VEHICLES
(AMENDMENT) REGULATIONS 2023

2023 No. 331

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty. This new instrument will increase the vehicle recovery charges and amend provisions on the processes on issuing a seizure form and release of vehicles under road traffic legislation.

2. Purpose of the instrument

- 2.1 These regulations amend the following regulations:
- a. The Police (Retention and Disposal of Vehicles) Regulations 1995 (the 1995 Regulations)
 - b. The Police (Retention and Disposal of Motor Vehicles) Regulations 2002 (the 2002 Regulations)
 - c. The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 (the 2005 Regulations)
 - d. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 (the 2008 Regulations)
- 2.2 The sums that the police, or in relevant circumstances the local authority, are entitled to charge for the vehicle's removal, storage and disposal of vehicles in the 1995, 2002, 2005 and 2008 Regulations are updated through these Regulations.
- 2.3 These Regulations amend the seizure and removal notice provisions in the 1995, 2002 and 2005 Regulations to allow notices to be given electronically.
- 2.4 Finally, these regulations amend the release of vehicles provision in the 2005 Regulations to assist the police and National Highways process when dealing with the release of vehicles from custody involving a change of registered keeper or owner of a vehicle.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of an instrument is the jurisdiction(s) which the instrument forms part of the law of. The territorial application of an instrument is where the instrument produces a practical effect.
- 4.2 The amendments to the 1995, 2002 and 2008 Regulations by these Regulations extend to England and Wales. The amendments to the 2005 Regulations by these Regulations extend to England and Wales and Scotland.

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 The Road Traffic Regulations Act (the 1984 Act) provides the police with the power to remove vehicles that are illegally, obstructively, or dangerously parked, abandoned or broken down in certain circumstances. The Act gives the Secretary of State the powers to prescribe charges in respect of the removal, storage and disposal of those vehicles. The Refuse Disposal (Amenity) Act 1978 (the 1978 Act) provides the local authority with powers to remove abandoned vehicles in certain circumstances. The Act gives powers to prescribe charges in respect of the removal, storage and disposal of those vehicles. These charges are prescribed in the 2008 Regulations
- 6.2 The Road Traffic Act 1988 (the 1988 Act) provides the police with the power to remove vehicles if they have reasonable grounds to believe that they are being driven without an appropriate licence or insurance. The Act gives the Secretary of State the powers to prescribe charges in respect of the removal and storage of those vehicles. These charges are prescribed in the 2005 regulations, as amended by the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008 (the 2008 Amendment Regulations)
- 6.3 The Police Reform Act 2002 (the 2002 Act) provides the police with the power to remove vehicles that are driven carelessly or inconsiderately on-road or without authorisation off-road and in a manner causing, or likely to cause, alarm, distress or annoyance. The Act gives the Secretary of State the powers to prescribe charges in respect of the removal and storage of those vehicles. These charges are prescribed in the 2002 Regulations, as amended by the 2008 Amendment Regulations
- 6.4 The Criminal Justice and Public Order Act 1994 (the 1994 Act) provides the police with the power to remove vehicles if they are being used in unlawful trespass. The Act gives the Secretary of State the powers to prescribe charges in respect of the removal and storage of those vehicles. These charges are prescribed in the 1995 Regulations
- 6.5 These Regulations update the 2008, 2005, 2002 and 1995 Regulations.

7. Policy background

What is being done and why?

- 7.1 The police have powers under the 1984 Act; the 1988 Act; the 1994 Act and the 2002 Act to remove vehicles in specific circumstances, such as abandoned vehicles or illegal parking. Local authorities also have corresponding powers to the 1984 Act under the 1978 Act. Removals ordered by the police are necessary in a variety of situations including when enforcing the law and when removing obstructions and potential dangers. In some cases, the police may need to remove a vehicle for forensic examination.
- 7.2 When exercising these powers, the police are empowered to charge the vehicle owner for the vehicle removal, storage and in some circumstances disposal or (potentially) destruction. The majority of these vehicle recovery charges were last updated in 2008 and in respect of the charges prescribed in Regulations made under the powers in the

1994 Act, they were last updated in 1995. As a result, the charges are no longer set at a suitable level for vehicle recoveries to remain operationally viable.

- 7.3 We have consulted on i) increasing and harmonising the current charges; ii) updating the provisions for seizure and removal notices to be served electronically; and iii) the ‘release of vehicles’ policy to account for changes in the operational environment.
- 7.4 Various options have been examined and ministers approved this new regulation that introduces an increase of 28% to the vehicle recovery charges set out in the 2002, 2005 and 2008 Regulations. The vehicle recovery charges set out in the 1995 Regulations are updated from a single removal and storage charge to a table of charges. The increase in the charges of 28% is based on the increase in inflation calculated by comparing the increase in GDP deflators between 2008 and 2021/2022. The amendments provide different fees for different classes of vehicles.
- 7.5 Ministers take the view that the charges should not be punitive or an income generator for the police but should be set at such a level that ensures the continuation of viable vehicle removal operations. The new higher charges are necessary because otherwise it is likely to become uneconomic for contractors to continue these operations.
- 7.6 If contractors decided to stop work for the police, this would have a detrimental effect on the police’s ability to enforce the law, remove obstructions and potential dangers, prevent theft of the vehicles, their being used for crime or becoming a focus for crime or environmental degradation or being driven in a dangerous condition.
- 7.7 These Regulation amend the release of vehicles provision in regulation 5 of the 2005 Regulations to strengthen the process for the release of a vehicle from custody, as the owner or registered keeper can be transferred after vehicle seizure.
- 7.8 These changes will not take effect until the next Common Commencement Date of 6th April 2023.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 We have no plans to consolidate the relevant legislation and by this SI will amend earlier instruments.

10. Consultation outcome

- 10.1 On 17 May 2021 the Home Office launched a targeted stakeholder consultation seeking views on increasing the vehicle recovery charges and adjustments to the provisions. This consultation closed on 10 September 2021 and Ministers decided in December 2021 to an increase to the charges and adjustment to two provisions which will allow for electronic seizure forms and strengthen the release of vehicles process.
- 10.2 There was overwhelming support for an increase in the charges and to update the charges as prescribed in the 1994 Act to become consistent with other vehicle recovery legislation. The majority of respondents (83%) said that it was financially unsustainable for recovery operators to continue to provide a viable recovery service with the current level of charges.
- 10.3 The increase in charges of 22% had been calculated before the launch of our consultation. To ensure that a sustainable uprating of the charges would be introduced

and reflecting concerns that the average increase of 22% was too low, during early 2022, the Home Office recalculated that the required increase should be 28%.

- 10.4 The majority of stakeholders felt that, in addition to raising charges, an amendment to adjust the provision that deals with seizure notices to allow electronic seizure notices as well as the paper ones would benefit the police and National Highways without impacting recovery operators.
- 10.5 In addition, an amendment to the ‘release of vehicles’ provision was reported as a sensible and beneficial change that would assist both the police and National Highways with the process of reclaiming vehicles.
- 10.6 This consultation was run in parallel to the passage of the Police, Crime, Sentencing and Courts Act 2022 through Parliament, which secured Royal Assent in April 2022, and which clarified the enabling power to charge for the removal of abandoned vehicles or those causing an obstruction under the 1984 Act.
- 10.7 The Home Office published this response on GOV.UK in January 2023 at [Charges for the removal, storage and disposal of vehicles under road traffic law - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/charges-for-the-removal-storage-and-disposal-of-vehicles-under-road-traffic-law)

11. Guidance

- 11.1 A Home Office circular will be published to alert police forces and other interested parties to the new regulations by 16 March 2023.

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 A full Impact Assessment has been prepared for this instrument because this SI relates to increase in charges/amendments to existing regulatory standards.
- 12.4 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](https://www.legislation.gov.uk) website.

13. Regulating small business

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

14. Monitoring & review

- 14.1 Not applicable.

15. Contact

- 15.1 James Lowes at the Home Office Email: james.lowes@homeoffice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Mark Williams, Deputy Director for Police Powers Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Chris Philp MP, Minister of State for Crime, Policing and Fire at the Home Office can confirm that this Explanatory Memorandum meets the required standard.