EXPLANATORY MEMORANDUM TO

THE REMOVAL, STORAGE AND DISPOSAL OF VEHICLES (PRESCRIBED SUMS AND CHARGES) REGULATIONS 2008

2008 No. 2095

THE POLICE (RETENTION AND DISPOSAL OF MOTOR VEHICLES) (AMENDMENT) REGULATIONS 2008

2008 No. 2096

AND

THE ROAD TRAFFIC ACT 1988 (RETENTION AND DISPOSAL OF SEIZED MOTOR VEHICLES) (AMENDMENT) REGULATIONS 2008

2008 No. 2097

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The police (and in certain circumstances the local authority) are empowered to remove vehicles that are illegally, dangerously or obstructively parked, or broken down or abandoned. The police are also separately empowered to remove vehicles used in a manner causing alarm, distress or annoyance or driven without licence or insurance. These three sets of regulations prescribe the sums that the police, or in relevant circumstances the local authority, are entitled to charge for the vehicle's removal, storage and disposal.

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

3.1 The new regulations provide for above inflation fee increases. The prescribed sums (commonly referred to as statutory charges) are currently £105 for removal, £12 per day for storage and £50 for disposal. These sums were prescribed in respect of vehicles illegally, obstructively of dangerously parked, or broken down, or abandoned in 1993. Up to that time, the charges were set in broad terms by relation to the costs incurred in removals, etc. ordered by the Metropolitan Police. Ministers believed this was a pragmatic and reasonable approach, as there was no other agreed basis for setting the charges. The Metropolitan Police's removal operations were then the largest in the country. (This position subsequently changed).

3.2 The charges in respect of vehicles used in a manner causing alarm, distress or annoyance or driven without insurance or licence were prescribed under new legislation in 2002 and 2005 respectively. As the costs incurred were likely to be the same whichever removal powers were used, the charges prescribed were the same as those prescribed in 1993.

3.3 The new charges take account of inflation, changes in operating conditions, experience that flat rate charges do not adequately reflect the different costs that might be incurred, the need to regularise the situation whereby payment above the statutory charges is negotiated in individual cases and the belief that it is no longer appropriate to rely solely on the Metropolitan Police's experience to set the charges.

4. Legislative Background

4.1 The Road Traffic Regulation Act 1988 and the Refuse Disposal (Amenity) Act 1978 allow the Secretary of State to prescribe charges for the removal, storage or disposal of vehicles that are illegally, dangerously or obstructively parked, or broken down, or abandoned. Theses powers are exercised in the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008.

4.2 Under the Police Reform Act 2002, the police can also 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 power to prescribe charges in respect of the removal and storage of those vehicles. This power is exercised in the Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008 which amend the charges set out in the Police (Retention and Disposal of Motor Vehicles) Regulations 2002.

4.3 Under the Road Traffic Act 1988, the police can remove a vehicle if they have reasonable grounds to believe that it is being driven without appropriate licence or insurance. This power is exercised in the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008 which amend the charges set out in the Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) 2005.

5. Territorial Extent and Application

5.1 The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 and the Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008 apply to England and Wales. The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations apply to Great Britain.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy Background

7.1 Ministers have decided to prescribe new charges following an extensive review. The new charges reflect changes that have taken place since 1993 as explained in section 3 above. Ministers are satisfied that they are necessary to ensure the continuation of viable vehicle removal operations.

7.2 Removals are normally undertaken by recovery operators contracted to a particular force or within a managed scheme run for the force by an independent managing agent. The number of such removals is not known. One smaller, more rural, force has estimated around 3,000 a year, another larger, more metropolitan, force 30,000.

7.3 For such removals and any subsequent storage and disposal of the vehicles concerned the police are entitled to recover from the owners such sums as the Secretary of State may prescribe. It is these sums which largely determine the income that police contracted recovery operators derive from the statutory removals they carry out.

7.4 A vehicle once removed does not usually have to be released to its owner until the sums are paid. If the sums are not paid they can be pursued through the courts. While in general

insurance companies have been prepared to pay above the prescribed rate if the costs incurred have been higher, only the prescribed sums are legally enforceable.

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 as to make removal operations viable.

7.6 The new higher charges are necessary because otherwise it is likely to become uneconomic for contractors to continue these operations. This is especially so if there were any increase in the numbers who insisted that they would pay only the statutory charges, whatever the actual cost incurred.

7.7 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.

Consultation and subsequent work

7.8 As part of the review a public consultation on the RTRA charges took place for 12 weeks from May to July 2007. Its major proposal was to replace the current flat rate statutory charge for removal with a set of charges dependent on vehicle type, condition and location. There were also related proposals for storage and disposal charges to vary. The consultation did suggest some possible charges, but emphasised that these were purely to facilitate discussion and not final.

7.9 There were 31 responses to the consultation paper. An analysis of these is available at http://www.homeoffice.gov.uk/documents/stat-charges-index The responses came exclusively from bodies with a professional, commercial or official interest. Before the consultation, it had become clear that most parties believed the current regime was unsatisfactory and needed significant change. Most respondents welcomed the consultation; the majority gave scenario based charging their broad support. There was some opposition to some of the detail, but this was not consistent across the sectors of which individual respondents formed part.

7.10 Ministers noted the overwhelming support for moving away from a single flat rate. They believed this necessary to recognise the varied requirements that might arise and to avoid the inequity of, for example, the owner of a car broken down on the road having to pay the same as an HGV driver whose vehicle had fallen down a highway verge. The new charges envisaged would relate to a limited range of scenarios each defined by reference to vehicle type or size, its condition, its position on or off road and, for larger vehicles, whether or not laden. Storage and disposal charges would relate to vehicle type and size. These factors are all considered to have an effect on the costs incurred by the contractors and scenario-based charging is thought to be the best way of reflecting these costs.

7.11 The Government thought it would be unhelpful to exempt particular vehicles or scenarios from the charge. The police must be able to remove any vehicle, using their RTRA powers, and vehicle operators need to be able to recover the cost of such removals.

7.12 Ministers noted that the responses had included many suggestions as to the scenarios to be used. Before they reached final conclusions, therefore, there was detailed further work to decide exact scenario content. This included further communications with those who had responded to the consultation.

7.13 In setting the charges the Government took account of suggestions made during the review. Generally, however, these suggestions were unsupported except by anecdote. The information was also of limited value, being put forward by individual operators or insurers or their representative bodies and therefore naturally selective. Respondents' suggestions as to

appropriate charges varied considerably, the highest suggestion sometimes being more than twice the lowest. The sums now prescribed are within the minima and maxima put forward. They take particular account of advice from the police. Interested parties have been invited to gather information over the first year of the new charges and Ministers intend to carry out regular reviews of the charges in future.

7.14 The new charges have been notified to those who engaged directly in the review. As there is no change in police powers, there will be no formal guidance. However, the Home Office will be writing to the interested parties to elaborate on how, subject ultimately to any ruling by the courts, the scenarios might appropriately be interpreted.

8. Impact

8.1 An impact assessment is attached.

8.2 The impact of the new charges on the public sector is not cost-related, since the costs fall only on vehicle owners or their insurance company. The statutory component of what they pay will in future be greater. Contractors will have a surer source of income more closely related to the costs they actually incur.

9. Contact

9.1 Geoffrey Biddulph at the Home Office, Public Order Unit, can answer any queries regarding the regulations: tel: 020 7035 1801, e-mail:geoffreycharles.biddulph@homeoffice.gsi.gov.uk

Summary: Intervention & Options		
Department /Agency: Home Office	**Title:** Impact Assessment of revised statutory charges for the removal , storage and disposal of vehicles by the police	
Stage: Implementation	**Version:** 4	**Date:** 10 July 2008
Related Publications:		

Available to view or download at:

http://www.homeoffice.gov.uk/about-us/publications/regulatory-impact-assessments

Contact for enquiries: John Crozier **Telephone:** 020 7035 1797

What is the problem under consideration? Why is government intervention necessary?

The police are empowered under three different Acts to remove vehicles and before releasing them to recover from their owners such sums as may be prescribed in respect of the removal and any subsequent storage and in some cases disposal. The current charges are unsatisfactory in that the they do not meet the costs incurred and the extra has to be met through negotiation and agreement. This results in uncertainty for the parties involved. There is a resultant risk of breakdown in arrangements for removal, which would prevent necessary removals from being undertaken

What are the policy objectives and the intended effects?

The aim is to ensure the continuation of an effective and viable means of vehicle removal by setting charges that meet but do not exceed the costs necessarily involved in these police undertakings.The costs should meet as far as possible the differing interests of the general public, individual motorists, the haulage industry, insurers, the police and the vehicle recovery operators who act on behalf of the police. Removals serve to prevent obstruction, danger, environmental degradation, theft, opportunites for crime, anti-social behaviour and driving linked with danger to other road users..

What policy options have been considered? Please justify any preferred option.

The options considered were: do nothing or increase the charges only by the rate of inflation; prescribe no charge for some cases; distinguish between straightforward removals and more complex recoveries; introduce menu-based charging; introduce negotiable charges; introduce scenario-based charging. Scenario-based charging is the only option that addresses all the issues, does not put any party at a disadvantage, is least likely to lead to disputes between the parties and is possible within the current legislation.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

After first year of application of the new charges; thereafter, regular periodic reviews.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



..... Date: 28 July 2008

Summary: Analysis & Evidence	
Policy Option:	**Description:**

COSTS

ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups' The increased charges do not affect the actual costs involved in removal, etc. They make a higher proportion of those costs legally enforceable rather than a matter of negotiation. The increased costs for those who regardless of cost pay only the prescribed sum are equal and opposite to the benefits for police
One-off (Transition) **Yrs**	
£ Nil	
Average Annual Cost (excluding one-off)	
£ Unknown	**Total Cost** (PV) **£ Unknown**

Other **key non-monetised costs** by 'main affected groups' Nil

BENEFITS

ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups' Police contracted recovery operators will have higher sums that are legally enforceable rathe rthan negotiable.
One-off **Yrs**	
£ Nil	
Average Annual Benefit (excluding one-off)	
£ Unknown	**Total Benefit** (PV) **£ Unknown**

Other **key non-monetised benefits** by 'main affected groups' Clarification for all parties of the amount legally payable for any incident and avoidance of situations where operators are unable to recover costs. This will ensure continuation of an effective and viable removal service to assist police operations intended to promote public safety and convenience and reduce crime.

Key Assumptions/Sensitivities/Risks Removals, etc will be carried out as at present. Police powers remain the same. Their use and the practical arrangements for removals, etc remain operational/commercial/contractual matters for the police. Statutory requirements as to payment also remain the same: anything further remains a matter between the parties.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate)

What is the geographic coverage of the policy/option?				England and Wales	
On what date will the policy be implemented?				1 October 2008	
Which organisation(s) will enforce the policy?				Police	
What is the total annual cost of enforcement for these organisations?				£ Nil	
Does enforcement comply with Hampton principles?				Yes/No	
Will implementation go beyond minimum EU requirements?				Yes/No	
What is the value of the proposed offsetting measure per year?				£ Not applicable	
What is the value of changes in greenhouse gas emissions?				£ Not appicable	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **Nil**	Small **Nil**	Medium **Nil**	Large **Nil**	
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A	

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ Decrease of £ **Net Impact** **£** Not applicable

Key: **Annual costs and benefits:** **(Net) Present**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Current situation

Under the Road Traffic Regulation Act 1988 (RTRA), the police are empowered to remove vehicles that are illegally, dangerously or obstructively parked, or broken down, or abandoned Such removals are important to enable the police 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 whilst in a dangerous condition. The Government is committed to ensuring that there are no obstacles to such removals.

The police also have powers to remove vehicles under the Road Traffic Act 1988 (RTA) and the Police Reform Act 2002 (PRA). Under the RTA, the police can seize vehicles driven by someone without an appropriate licence or without insurance. Under the PRA, they can seize vehicles which are being driven carelessly or inconsiderately on road or off road without authority, contrary to the RTA, and in such a manner as to cause or be likely to be cause alarm, distress or annoyance to members of the public. These powers are important to enable the police to put an immediate stop to serious anti-social behaviour and to tackle effectively serious criminality often associated with danger to other road users.

The removals are normally undertaken on behalf of the police by recovery operators contracted to the particular force or within a managed scheme set up by the force and run for the force by an independent managing agent. There are an estimated 5,000 recovery operators across the country, of which perhaps some 700 - 800 concentrate on the general range of recovery work, from road traffic accidents, etc, rather than straightforward removals to a garage for repair work. It is from this latter group that police forces or their scheme managers select, according to their chosen criteria, the operators on which they call for removals.

For such removals, any subsequent storage and, in the case of RTRA removals, disposal of the vehicles concerned, the police are entitled to recover from the owners such sums as the Secretary of State may prescribe (in the case of RTRA removals, these costs may be met by insurers: it is for owners to decide whether to take out insurance that covers these costs and if they do whether to make a claim). It is these sums which largely determine the income that police contracted recovery operators derive from the statutory removals they carry out.

A vehicle once removed does not normally have to be released to its owner until the sums are paid. While in general insurance companies have been prepared to pay above the prescribed rate in appropriate circumstances, only the prescribed sums are legally enforceable for any removal, etc.

Rationale for new prescribed sums

The legislation does not lay down a particular basis for prescribing the sums. Ministers have however consistently taken the view that they should not be punitive or an income generator for the police, but should be set at such a level as to make removal operations viable by ensuring that the costs necessarily involved in removals, etc are met.

The prescribed sums for RTRA removals (commonly referred to as statutory charges) were last amended in 1993. Up to and including that time, the charges were set in broad terms by relation to the costs incurred in removals, etc. ordered by the Metropolitan Police. Ministers believed this was a pragmatic and reasonable approach, given that there was no prescribed or other firm and agreed basis for setting the

charges and that there was no more wide-ranging information available. At the time the Metropolitan Police's removal operations were the largest in the country and contracted out rather than conducted in-house. (This position subsequently changed as their operations scaled down, chiefly following the introduction of decriminalised parking in London). The RTA and PRA powers came into force in 2003 and 2005 respectively and Ministers decided that the charges applicable under these should be the same as those applicable under the RTRA since the costs involved in a removal would be the same under whatever power the removal was ordered,

The need for a review of the charges arose originally from a belief that it was no longer appropriate to set the charges based solely on the Metropolitan Police's experience, and from inflation, changes in operating conditions and experience that flat rate charges, such as have existed hitherto, did not adequately reflect the different costs that might be incurred in different kinds of removal. Such factors gave rise to a risk that removal, etc operations might become non-viable.

The higher charges expected to result from the review were seen as necessary because otherwise that part of a recovery operator's business carried out for the police might become uneconomic for them to continue. This would particularly be the case if there was any increase in the numbers who insisted that they would pay only the statutory charges, whatever the actual cost incurred.

If contractors concluded that undertaking RTRA removals for the police was not economically viable, and there were no other reasons for remaining on police contract, they might decide to withdraw. This would have a detrimental effect on the police 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 whilst in a dangerous condition. If fewer operators were working for the police, vehicles would not be removed so quickly, thereby causing additional delay on the roads with consequent unquantifiable extra cost to the economy in terms of longer road closures, more severe congestion, longer journey times, etc. Any lessening of police ability to seize and remove vehicles using RTA and PRA powers could lead to more uncontrolled anti-social behaviour using vehicles and more driving without licence or insurance, often involving those whose driving is a danger to other road users and who may be involved in other criminality.

Consultation

As part of the review a public consultation on the RTRA charges took place over May, June and July 2007. Its major proposal was to replace the current flat rate statutory charge for removal with a set of charges dependent on vehicle type, its condition and location, ie scenario charging. (There were also related proposals for storage and disposal charges to vary according to vehicle type.) The consultation did suggest some possible charges that might apply to the different scenarios, but emphasised that these were purely to facilitate discussion and not final. The main purpose of the consultation was to obtain views on moving from flat rate charges.

There were 31 responses to the consultation paper. (Although the document was publicly available, these came exclusively from bodies with a professional, commercial or official interest,) Prior to the consultation, it had already become clear that most interested parties believed the current regime was unsatisfactory and in need of significant change. Most respondents therefore welcomed the consultation as likely to lead to some level of improvement. The majority gave the proposals in the paper their broad support. They thought that their essential component, the introduction of scenario based charging, would be a significant change for the better. There was some opposition in principle to various elements in the proposals but this was not consistent across the sectors of which individual respondents formed part. No one proposal was unanimously rejected by any sector.

The Government noted the overwhelming support for moving away from a single flat rate. To achieve the aim of ensuring the viability of effective removal operations, they believed such a move necessary to recognise the varied requirements that might arise in a removal and to avoid inequity. The situation with the range of removals that might be required under the RTRA is quite different from the situation with regard to removals under the decriminalised parking regime or other situations in which a flat rate might

apply. The Government therefore ruled out the option of simply uprating the current flat rate charges in line with inflation.

The consultation document and Government's response are available on the HO website at http://www.homeoffice.gov.uk/documents/stat-charges-index

Those who had responded to the consultation paper were also asked for any separate views on continuing to keep the charges in respect of vehicles removed under the RTA and PRA powers the same as the RTRA charges. They made no comments.

Options

To bring about a variation in charging, the Government considered five options:

Prescribing a nil charge or not prescribing any charge for particular circumstances or vehicle types The Secretary of State is empowered to prescribe charges; she is not required to do so. It would therefore be possible not to prescribe charges in respect of certain cases, eg removal of an HGV, or else to prescribe that the charge in certain cases should be nil. This would leave any payment for removal, etc as a matter for negotiation. This option was not favoured. The police must be able to remove any vehicle, using their RTRA powers, when they consider it necessary and subject to any requirements they have for speed of removal, protection of possible evidence, etc. The situation in which the police require the removal of someone's vehicle is quite different from the situation in which that person voluntarily contracts with an operator to effect a removal and agrees the operator's charge. Not having a positive statutory charge for every case would disadvantage recovery operators by denying them the current security of charges that must be paid before a vehicle has to be released. It could also lead to their regular involvement in unnecessary disputes and potential court proceedings. This could lead to their being unwilling to continue RTRA work for the police.

Menu-pricing. Under this option an over-all charge would be built up from different prescribed charges for different elements of an operation, eg for each hour worked, for each person employed, for each type of recovery vehicle or other equipment used. This option was not favoured. It would be overly complex and lead to unnecessary and potentially costly arguments over what was and was not necessary in any individual case. Building up an over-all charge from prescribed charges for different elements would also be likely to result in higher charges than having a set charge and would be less likely to meet but not exceed the costs necessarily involved in removals. This option might benefit operators, but would be unlikely to meet the differing interests of the general public, individual motorists, the haulage industry, insurers and the police.

Drawing one broad distinction between straightforward "removals" (via tow or simple pick-up) and "recoveries" (from complex situations, requiring specialist equipment and expertise). Under this option, different provisions might apply according to whether an operation constituted a removal or a recovery: there might be a higher charge for a recovery or recoveries might have no prescribed charge or a prescribed charge of nil. This option was not favoured. Any movement of a vehicle from one place to another is necessarily a removal. It would be impracticable to seek to define in advance whether any individual removal might fall into a category that all would agree to describe as a recovery. For the reasons outlined above, having no prescribed charge for recoveries (however defined) would not be helpful. The governing primary legislation would not permit the Secretary to State to prescribe that for recoveries the prescribed charge would be for negotiation or as set by another party. The Secretary of State is empowered to prescribe charges not a system whereby charges are set or to delegate the prescription of charges. The option is in any case unnecessary since the Government's preferred option of setting different charges for different situations can adequately take into account the type of characteristics that are commonly associated with recoveries by those who seek to draw a distinction between recoveries and removals.

Negotiable charges would entail providing that the charge for any removal would be as agreed between the parties or in accordance with a table of charges determined by the individual police force and its contracted operators. This option is not possible under the existing legislation. The Secretary of State can only prescribe set sums. Payment above the prescribed amount can however be made by agreement between the parties, as happens at present.

Scenario charges was the preferred option. The Government decided that the new charges should relate to a limited range of scenarios each being defined by reference to the vehicle type, its condition, its position on or off road and for larger, generally commercial vehicles, whether or not it is laden.

They noted however that the responses had included many suggestions as to the detail of the vehicle type categories, the scenarios and the different levels of charges that might apply. Detailed further work on these took place over the following months, including further communications with those who had responded to the consultation.

In deciding on the level of charges, the Government concluded as a matter of principle that the costs of participation by a recovery operator in a managed scheme should not be taken into account as these are not related to the costs incurred in undertaking a removal. It is for individual police forces to decide whether to operate a managed scheme or contract directly with individual operators and for operators to decide whether to join a scheme. These are commercial and contractual matters for negotiation between the police, the managing agent and the operators. The cost to the operator is not a cost arising unavoidably from the removal, which is what the charges are intended to cover.

The charges finally agreed by Ministers are as set out in the Regulations (the tables are attached as an Annex to this Impact Assessment They have been notified directly to those who engaged directly with Government in the review in a letter that has been placed on the HO website with the original consultation document and Government report on responses.

In setting the charges the Government took account of the views, oral and written, of those who engaged in the review. Generally, the charges suggested were not supported except by anecdote. Some harder evidence, such as invoices for particular removals, was presented but was of very limited value, being put forward by individual operators or insurers or their representative bodies and naturally selective and non-objective. Respondents' suggestions as to appropriate charges for different scenarios varied very considerably, with in some cases the highest suggestion being more than twice the lowest. There were also suggestions for variations in the number and detail of the scenarios to be used. In general, figures put forward by insurers were higher than those put forward by recovery operators, but this was not always the case, nor was there always agreement between different representatives from the same broad area. For example, for removal of an unladen vehicle between 7.5 and 18 tonnes, off-road but undamaged, the Association of Vehicle Recovery Operators (AVRO) suggested £800, the Authorised Vehicle Recovery Operators Alliance (AVROA) £1490, the Association of British Insurers (ABI) £1000; for removal of a vehicle between 2.5 and 7,5 tonnes, off-road but undamaged AVRO suggested £500, AROA £400, ABI £350 and the Road Haulage Association £440.

The figures finally decided on by Ministers are within the minima and maxima put forward. They take particular account of advice from the police, who have the broadest experience of recovery operations, but do not have the direct motivation of recovery operators and owners/insurers to argue for higher or lower levels. Ministers accept that there will be disagreements over the charges, particularly, in broad terms, whether they are too high or too low. Some parties may take a diametrically opposed view to others. Apart from different parties' assessments of what would best suit their interests to claim as costs incurred, views as to what would be an appropriate charge in any case will also reflect genuine differences of opinion as to what is necessary for a particular removal or type of removal and different contractual requirements.

Ministers believe that the charges on which they have decided are the most reasonable outcome that is currently possible. They recognise however that the firm evidence for these is limited. Interested parties have therefore been invited to gather information over the first year of the new charges to identify any

problems that might arise over the available scenarios and their interpretation and to maintain comprehensive records of costs to inform any future changes. Ministers have already agreed that in future there will be regular reviews.

Impact of the changes

The impact of the changes in individual cases cannot be meaningfully assessed. The rise in the statutory charge is clear: it will increase from £105 to £150 for the cheapest scenario and to £6000 in the most expensive. As noted above, however, it is already customary for insurers to pay more than the statutory charge where there has clearly been significant extra expense. The total amount currently paid can therefore differ in every individual case. The new statutory charges mean that the element of total payment which is statutory will increase, not necessarily the total payment. In some cases, the total payment may decrease slightly, where a contractor considers the amount obtained under the statutory obligation is sufficiently close to the costs actually incurred to be acceptable.

The main change will be in responsibility for meeting the total cost of a removal. If the owner insists on paying only the statutory charge any extra cost incurred falls on the police/their recovery operator. Under the new charges, such extra cost will be less.

The charges will continue to fall only on owners and their insurers, that is those responsible for the vehicle. Ministers have decided that this is generally appropriate, rather than that they should fall on the public purse generally or on police resources that would thus be diverted from other vital work. It is the case, however, that the legislation entitles the police to recover the prescribed charges, it does not require them to do so. It would be for individual chief officers to decide if in the special circumstances of a particular case the charges should not be recovered. Any payment to the recovery operator would then be a contractual matter between the police and operator or operator's managing agent.

It is unlikely that higher statutory charges would make it harder to obtain payment. A vehicle does not have to be released to its owner unless the charges are paid. RTRA charges can also be pursued through the courts and a vehicle that is not claimed can be disposed of and sufficient of the proceeds kept to meet the statutory charges.

The overall impact of the changes can also not be meaningfully assessed. Only a not necessarily representative quarter of police forces have been able to give an indication as to the numbers of statutory removals they undertake. These range from around 3,000 per year in one more rural county to around 30,000 in a more metropolitan area. There is minimal evidence as to the types of vehicle involved in these removals (though anecdotally between two thirds and three quarters of removals are believed to involve vehicles of less than 3.5 tonnes.). There is no evidence as to the scenarios in which the removal took place, though it is believed that around 70% of removals are of vehicles, commonly private cars, that are not significantly damaged and are on road. (This estimate relates to RTRA removals; virtually all RTA and PRA removals would involve private, undamaged vehicles, though numerous PRA removals are of vehicles being used illegally off road.)

Impact on small firms

The small firms chiefly affected are the recovery operators working for the police and the firms whose vehicles may be removed by the police under RTRA powers (ie hauliers). There is no regulatory impact, as the charges are not a regulation. The increase in the charges will benefit recovery operators, for the reasons outlined above: they will have a greater certainty of recovering all or the greater part of the costs they actually incur. Hauliers and their insurers, as noted above, already commonly pay above the prescribed charge: the difference will be in the amount that is legally enforceable.

Throughout the review of charges there have been discussions, meetings, written communications with and comments from individual small firms and their representative organisations. Their comments formed the bulk of responses to the formal consultation and follow-up work and have been taken into

account as explained. Representative organisations of hauliers and their insurers have specifically welcomed the new charging regime.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Annexes

TABLES OF CHARGES

Charges in relation to the removal of vehicles

	1	2	3	4	5
1	*Vehicle position and condition*	*Vehicle equal to or less than 3.5 tonnes MAM*	*Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM*	*Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM*	*Vehicle exceeding 18 tonnes MAM*
2	Vehicle on road, upright and not substantially damaged or any two wheeled vehicle whatever its condition or position on or off road	£150	£200	£350	£350
3	Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both.	£250	£650	Unladen - £2000	Unladen - £3000
				Laden - £3000	Laden - £4500
4	Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£400	Unladen - £1000	Unladen - £1500
				Laden - £1500	Laden - £2000
5	Vehicle, excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£300	£850	Unladen - £3000	Unladen - £4500
				Laden - £4500	Laden - £6000

Charges in relation to the storage of vehicles

	1	2	3	4	5
1	*Two wheeled vehicle*	*Vehicle, not including a two*	*Vehicle exceeding 3.5 tonnes MAM*	*Vehicle exceeding 7.5 tonnes MAM*	*Vehicle exceeding 18*

		wheeled vehicle, equal to or less than 3.5 tonnes MAM	*but equal to or less than 7.5 tonnes MAM*	*but equal to or less than 18 tonnes MAM*	*tonnes MAM*
2	£10	£20	£25	£30	£35

Charges in relation to the disposal of vehicles (RTRA removals only)

	1	2	3	4	5
1	*Two wheeled vehicle*	*Vehicle, not including a two wheeled vehicle, equal to or less than 3.5 tonnes MAM*	*Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM*	*Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM*	*Vehicle exceeding 18 tonnes MAM*
2	£50	£75	£100	£125	£150