EXPLANATORY MEMORANDUM TO

THE REMOVAL AND DISPOSAL OF VEHICLES (AMENDMENT) (ENGLAND) REGULATIONS 2012

2012 No. 2277

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

2. Purpose of the instrument

2.1 The purpose of the instrument is to extend police powers under section 99 of the Road Traffic Regulation Act 1984 ("the 1984 Act") to remove dangerously or obstructively parked vehicles from private land, in the same way as their existing powers enable them to do so on public roads.

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

3.1 None.

4. Legislative Context

4.1 Section 99 of the 1984 Act enables the Secretary of State to provide in regulations for the removal of vehicles that are illegally, obstructively or dangerously parked or broken down on a road (defined in section 142 of the 1984 Act as '*any length of highway or of any other road to which the public has access',).* It also gives the same powers for vehicles that have been abandoned on a road or "*on any land in the open air*", which covers private land. The current regulations are the Removal and Disposal of Vehicles Regulations 1986 (SI 1986/183) (the "1986 Regulations"). The 1986 Regulations give the police and some other groups, such as local authorities, the power to remove vehicles in any of the aforementioned categories.

4.2 Section 55 of the Protection of Freedoms Act 2012 ("the 2012 Act") amends section 99 of the 1984 Act to extend the power to make regulations which confer a power on the police (and others) to remove vehicles that are illegally, dangerously or obstructively parked on any land other than a road.

4.3 These Regulations amend the 1986 Regulations to give the police the same powers to remove obstructively or dangerously parked vehicles from other land as they currently have to remove them from a road.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

- What is being done and why

7.1 As a result of the ban on clamping and towing resulting from section 54 of the 2012 Act, it is anticipated that landholders will move to different forms of parking enforcement, such as ticketing or the use of barriers, which will remain legal. However, a consequence of the ban on towing is that an appropriate mechanism, which is not vulnerable to abuse by clamping companies, is needed for the removal of vehicles obstructing or preventing a landowner's use of their land.

7.2 This instrument amends the 1986 Regulations to give the police the same powers to remove vehicles from other land as they currently have to remove vehicles from a road.

7.3 This extension of police powers will not constitute a duty, and will allow the police to use their discretion in any given situation to determine the appropriate action to take. The police will only use this new power where they consider a vehicle to be parked in a way which creates a danger or major obstruction.

- Consolidation

7.4 No consolidation is planned.

8. Consultation outcome

8.1 No formal 12 week consultation has been undertaken. This is because these regulations only make a technical change. There is therefore no change in policy. We have consulted with the Department for Transport and the Association of Chief Police Officers (ACPO).

9. Guidance

9.1 ACPO will provide guidance to all relevant police forces on the extension of police powers.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal as the majority of the costs arising from the change are recoverable.

10.3 An Impact Assessment has not been prepared for this instrument. However, an overarching impact assessment on the reform of vehicle immobilisation, which included an assessment of the impact of the extension of police powers, is available at: www.homeoffice.gov.uk/publications/about-us/legislation/freedom-bill/reform-vehicle-immob-ia?view=Binary

11. Regulating small business

11.1 The legislation does not impose additional burden on small business.

12. Monitoring & review

12.1 The effectiveness of the extended police powers will be monitored by looking at reports of any problems that arise and the nature/number of complaints.

13. Contact

Kate Mosley at the Home Office Tel: 0207 035 8303 or email: kate.mosley@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.