EXPLANATORY MEMORANDUM TO

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

2008 No. 3013

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

2. Description

2.1 Certain authorities are empowered to remove vehicles that are broken down, contravening any statutory prohibition or restriction or are causing an obstruction and are likely to cause danger to other road users, or are abandoned. The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 ("the Charges Regulations") prescribe the sums that certain authorities are entitled to charge for such vehicle's removal, storage and disposal. These Regulations amend the Charges Regulations, in order to enable the Secretary of State to recover charges for the storage and disposal of vehicles removed by traffic officers.

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

3.1 None

4. Legislative Background

4.1 The Road Traffic Regulation Act 1984 ("the 1984 Act") allows the Secretary of State to prescribe charges for the removal, storage and disposal of vehicles that are broken down, contravening any statutory prohibition or restriction or are causing an obstruction and are likely to cause danger to other road users or are abandoned.

4.2 The Removal and Disposal of Vehicles (Traffic Officer) (England) Regulations 2008 provides for such vehicles to be removed by traffic officers and amends sections 100-102 of the 1984 Act to enable vehicles removed by traffic officers to be delivered to the Secretary of State who will then arrange for their storage and if necessary, eventual disposal. The amendments to the 1984 Act also permit the Secretary of State to recover charges for the removal, storage and disposal of vehicles.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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 Removal and Disposal of Vehicles (Traffic Officers) (England) Regulations 2008 provide Traffic Officers with similar powers to the police to remove broken down vehicles and vehicles that are permitted to remain at rest in contravention of certain statutory restrictions or prohibitions, or to remove such vehicles that are causing an obstruction or danger to other road users and vehicles that have been abandoned on roads for which the Secretary of State is the traffic authority. Vehicles removed by traffic officers will be delivered to the Secretary of State who will make arrangements for their storage and ultimate disposal. The Secretary of State is entitled to recover prescribed charges for the removal, storage and disposal of such vehicles.

7.2 Various authorities including the police and the local authorities are able to remove vehicles that are illegally, dangerously or obstructively parked or broken down or are abandoned. The Charges Regulations were made recently, and prescribe new charges for the removal, storage and disposal of vehicles following an extensive review. As part of the review a public consultation ("the Home Office Consultation") on the existing charges took place in 2007. Its major proposal was to replace the 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 Home Office Consultation did suggest some possible charges, but emphasised that these were purely to facilitate discussion and not final.

7.3 The new prescribed charges as set out in the Charges Regulations take into account inflation, changes in operating conditions and the experience that flat rate charges do not adequately reflect the different costs that might be incurred.

7.4 Removals are normally undertaken by recovery operators contracted to a particular authority or within a managed scheme or by an independent managing agent. The new prescribed charges are necessary because otherwise it is likely to become uneconomic for contractors to continue these operations. Responses to the Home Office Consultation supported this.

7.5 It was considered that any charges recovered by the Secretary of State for the removal of vehicles by traffic officers, and for the storage and disposal of such vehicles should be the same as those recovered by other authorities.

7.6 The Department of Transport has not consulted on the amendments that are being made to the Charges Regulations as it undertook an extensive public consultation in relation to the Removal and Disposal of Vehicles (Traffic Officers) (England) Regulations 2008 and it informed its consultees at the time that the charges for removal, storage and disposal recovered by the Secretary of State for vehicles removed by traffic officers would be the same as those prescribed by the Home Office. That consultation document also informed consultees about the Home Office Consultation on the prescribed charges which lead to the making of, by the Home Office of the Charges Regulations. The general responses to the

Department of Transport's consultation were very positive and no consultee had any issues with the Secretary of State recovering removal, storage and disposal charges in line with those prescribed by the Home Office.

8. Impact

8.1 Impact assessments were produced for both the Charges Regulations and the Removal and Disposal of Vehicles (Traffic Officers) (England) Regulations 2008.

8.2 The Department of Transport's impact assessment, produced for the Removal and Disposal of Vehicles (Traffic Officers) (England) Regulations 2008, considered the Secretary of State having powers to recover charges for the removal, storage and disposal of vehicles. The Home Office impact assessment considered issues surrounding authorities having a scenario based charging scheme.

8.3 There is no additional impact of the Secretary of State being able to recover charges for the storage and disposal of vehicles.

9. Contact

9.1 Kelly Luther at the Highways Agency, National Vehicle Recovery Project can answer any queries regarding the regulations: telephone: 01234 751264, e-mail: kelly.luther@highways.gsi.gov.uk