

## **REGULATORY APPRAISAL**

### **ROAD TRAFFIC, WALES**

#### **THE REMOVAL AND DISPOSAL OF VEHICLES (AMENDMENT) (WALES) REGULATIONS 2005**

##### **Background**

1. In recognition of the growing problem of abandoned vehicles in Wales, as in the rest of the UK, the Welsh Assembly Government proposes to introduce legislation to reduce the amount of notice that has to be given by local authorities and the police before they are able to remove such vehicles.
2. On 10 April 2002, the Department of Transport, Local Government and the Regions in conjunction with the Department for Environment, Food and Rural Affairs announced new measures to clamp down on abandoned vehicles in England. This announcement followed a consultation exercise conducted by the Departments back in October 2001 about the growing problem of abandoned vehicles.
3. The new measures announced on 10 April 2002 included reductions in the notice periods under the Removal and Disposal of Vehicles Regulations 1986. This has allowed local authorities and the police in England to remove and dispose of abandoned vehicles more quickly and to tackle the growing problem that they pose. The delay in implementing this legislation in Wales occurred because the Department for the Environment, Food and Rural Affairs (Defra) introduced England only legislation to reduce notice periods. When the Assembly Government wanted to do the same it had to amend both Local Authority and Police powers together. As the Police powers had not been devolved it was necessary to seek a Transfer of Functions Order. Because of the timetabling difficulties of the legislation in Westminster the Transfer of Functions Order did not come into force until 31 December 2004. The functions were then delegated to the Minister for Environment, Planning and Countryside at the end of March this year. It is intended that the proposed changes in Wales will reflect those in England, as it is thought that it would be inappropriate and confusing for there to be different notice periods.

##### **Purpose and intended effect of the measure**

4. The Removal and Disposal of Vehicles Regulations 1986 provide for the removal and disposal of vehicles under sections 3 and 4 of the Refuse Disposal (Amenity) Act 1978 and sections 99 and 101 of the Road Traffic Regulation Act 1984.
5. These Regulations enable local authorities, where they deem that a vehicle is abandoned and is in such a condition that it ought to be destroyed, to affix notice of the proposal to remove the vehicle 24 hours before its removal, rather than 7 days before its removal as at present.

6. In addition, they provide that where an authority has removed a vehicle (but it is not in such a condition that it should be destroyed) and has located the owner, the period during which the owner is required to remove the vehicle from the authority's custody is reduced from 21 days to 7 days from when the relevant notice is served on the owner.
7. These Regulations do not apply to immobilised vehicles on the Severn Bridges or in their toll plaza areas as, under the Severn Bridges Act 1992, which came into force on 26 April 1992, there is a special (non-devolved) regime in place in relation to the removal of such vehicles.

### **Risk Assessment**

8. It is recognised that authorities are at present unable to react quickly enough to abandoned vehicle reports due to the length of the existing notice periods. This has a negative effect on the environment and the amenity of the locality as abandoned vehicles can be hazardous to the public, particularly children, and can attract attention from vandals and arsonists. Therefore, without these Regulations, abandoned vehicles would continue to be a source of potential vandalism and arson for a longer time period than if these Regulations were introduced.
9. Whether an apparently abandoned vehicle is in such a condition that it ought to be destroyed will be a subjective one for the local authority's judgement. However, in the majority of cases it will be a matter of common sense to conclude whether it has indeed been abandoned. Nevertheless, it is important that authorities have the ability to respond to a report of an abandoned vehicle more quickly than they are currently able to.

### **Options**

#### Option 1: Do Nothing

10. This would mean that the different "period of removal notices" between England and Wales would continue.

#### Option 2: Make Legislation

11. This would mean reducing the "removal notice" periods in line with those operating in England.

### **Benefits**

12. Implementing these proposed Regulations will benefit the community, whose perception of a safe environment will be enhanced. These Regulations will also reduce the costs to the fire service as implementation of a speedier removal service should result in less call-outs for vehicle arson related incidents. There will be savings for resources of police authorities by use of accredited persons (usually Police Officers, Fire Service Officers, Local Authority officers and contractors appointed and authorised by the Police or Local Authorities). In addition, small businesses should have more stable cash flow systems, as contractors would be able to recover money for disposing of vehicles sooner than was previously possible. Furthermore, the opportunities for rogue "scrap merchants" to target abandoned vehicles would be limited.

## **Costs**

12. There are no additional financial implications to the Assembly as a result of these Regulations. Any work including those associated with the preparation of these Regulations will be accommodated within the existing Environment Division's administration costs budgets.
13. No compliance costs will be imposed on local authorities, Fire Brigades, Police Authorities or scrap merchants as a result of these Regulations. There will clearly be a saving to local Authorities and emergency services as there will be fewer accidents, acts of vandalism and burned out vehicles as a result of speedier removal but the cost saved is not possible to quantify at this stage. It is also envisaged that the costs for contractors collecting and disposing of abandoned vehicles would be reduced because these vehicles can be managed more efficiently and that scrap merchants would see an improvement in their cash flow.

## **Competition Assessment**

14. The competition filter has been applied, and as this is a matter that primarily affects the enforcement agencies involved there are no matters arising here.

## **Consultation**

### With Stakeholders

15. The Welsh Assembly Government consulted with stakeholders between 27 June 2005 and 5 August 2005. A list of consultees is attached at Annex A. 10 written responses were received, of which 7 were unequivocally supportive, and the remaining 3 whilst supportive raised concerns in relation to the following issues:
  - a reduced notice period could lead to claims from car owners for compensation from the local authority concerned;
  - the need for clarification of the process of owner notification, to prevent the removal of the car without the owner being aware e.g. recorded delivery;
  - the need for greater consistency in assessing a vehicle as being in "such a condition that it ought to be destroyed"; and
  - the criteria on what might constitute an abandoned vehicle should be communicated to the motoring public in advance.
16. The only other significant comment was from Torfaen County Borough Council who suggested that enforcement of these Regulations may be difficult due to the limited numbers of staff involved with the process.
17. However, these comments were not deemed significant enough to amend the Regulations as the proposed regime has been operated successfully in England for several years without adverse comment or administrative problems.

### With Subject Committee

18. The Environment, Planning and Countryside Committee scrutinised these Regulations at its meeting on 5 October 2005

19. Members raised two questions to which the Minister responded

- Do these Regulations apply only to public highways?
- Is there a Welsh Assembly Government performance indicator for local authorities on this problem? If so, what is the outcome and how will these Regulations improve matters?

A transcript of the Committee's discussion is attached at Annex B.

20. The Committee recommended approval of these Regulations without amendment.

### **Significant Costs**

21. There are no significant costs associated with the making of these Regulations.

### **Review**

22. The effect of these Regulations will be monitored via the Waste Dataflow returns from local authorities received on a quarterly basis. This records the number and tonnage of vehicles disposed of.

### **Summary**

23. Local authorities, Police, Fire Brigade and general public will benefit from the implementation of these Regulations, as they will introduce a consistent and effective approach throughout Wales in tackling the problem of abandoned vehicles.

## Annex A

### **Consultee list**

National Assembly for Wales: Environment, Planning & Transport Committee  
WLGA  
Chief Executives County and County Boroughs Councils in Wales  
Environment Agency  
CBI Wales  
Institute of Directors  
Cardiff Chamber of Commerce  
Federation of Small Businesses  
NFU Cymru  
Farmers Union of Wales  
Freight Transport Association  
Country Landowners and Businesses Association  
Chartered Institute of Wastes Management  
Welsh Environmental Services Association.  
Association of Chief Police Officers  
Driver & Vehicle Licensing Authority  
Royal Automobile Club  
Automobile Association  
British Motorcyclists Federation  
Motorcycle Action Group  
Association of Vehicle Recovery Operators Ltd  
Motor Insurers' Bureau  
Association of British Insurers'  
HPI (HP Information Ltd)  
Retail Motor Industry Association  
Federation of British Historic Vehicle Clubs  
Welsh Social Partners Unit  
Black Environmental Network  
National Trust  
Fire Brigade Association  
CADWU  
Brecon Beacons National Park  
Pembrokeshire Coast National Park  
Snowdonia National Park  
Countryside Council for Wales  
Forestry Commission  
Welsh Consumer Council  
John Griffiths AM  
Rosemary Butler AM  
Councillor Goronwy O Parry

## Annex B

### **Rheoliadau Cerbydau sydd wedi'u Gadael (Cymru) 2005 Abandoned Vehicles (Wales) Regulations 2005**

**Alun Ffred Jones:** Symudwn ymlaen at yr ail ddarn o ddeddfwriaeth, sef Rheoliadau Cerbydau sydd wedi'u Gadael (Cymru) 2005.

**Alun Ffred Jones:** We will move on to the second piece of legislation: the Abandoned Vehicles (Wales) Regulations 2005.

**Helen Mary Jones:** I welcome and support these regulations. I have two questions. First, do these regulations apply only to public highways, or do they also apply to things such as council-owned car parks, playing fields, and land adjacent to highways that is sometimes referred to as backs of footpaths? Do these powers extend over those areas as well?

**Carwyn Jones:** Powers are already in place to deal with areas off the public highway. For example, the regulations that we have now enable local authorities to deal with vehicles that have been abandoned on council-owned car parks and council-owned playing fields immediately, because they can identify the landowner, namely themselves. The new regulations seek to reduce the regulations in terms of how they deal with public highways and the notice periods. Therefore, effectively, they deal with the notice periods for public highways, but they leave unaffected the notice periods for private land.

**Helen Mary Jones:** That is helpful. In terms of dealing with this issue, which I am sure features in everyone's constituency postbag and becomes a real nuisance to people, does the Assembly Government have a performance indicator for local authorities that relates to this problem? If not, how is it monitored; if so, what is the outcome of that performance indicator? These regulations will hopefully improve their effectiveness.

**Carwyn Jones:** Consultation is taking place on core indicators to support the performance measurement framework in Wales, and there is a proposal for an abandoned vehicles performance indicator. The specific consultation question is: should we collect the time taken to remove abandoned vehicles from the date that the incident is reported to the authority, rather than from the expiry of the notice? So, subject to the consultation, there will be an indicator in terms of the time that it takes for a vehicle to be removed.

**Carl Sargeant:** Although I welcome these regulations, we are a little bit behind England. However, they are soon to be implemented in Wales. Enforcement will be crucial in this. Abandoned cars are a recognised problem, but, if it is not enforced, the problem continues. Can we have an update on enforcement and how that will be enacted? In addition, given that England is ahead of us on this—it is already practising these regulations—I note that one of the responses of the RAC was to drop from a 21-day order to a seven-day order, which could prove problematic if the owner of a vehicle was in hospital or away on holiday or something. I was wondering whether there is an impact study on that, and what experiences England has had and whether it is problematic. It is just that point for now, Chair.

**Carwyn Jones:** The reason that we are behind is because the power had to be transferred to us via a transfer of functions Order before we could actually implement the regulations; they were not originally devolved, whereas the power already existed in England to do that. It is not a question of being slow; it is because of the procedure that we have to go through to acquire the power to do it. The advantage of that is that we may be in a position to assess what has happened in England, to see whether any difficulties have been encountered there that we could learn from. It is early days yet of course, in terms of the way in which the new regulations have been implemented in England. I am not aware of an impact study having taken place so far but, clearly, it is of interest to us to see whether there have been difficulties, and Carl has highlighted some now.

**Alun Ffred Jones:** Mae'r arafwch yn awgrymu efallai y byddai setliad ychydig yn symlach a mwy uniongyrchol yn help i'r Cynulliad weithredu'n fwy effeithiol, ond mater arall yw hynny. Os nad oes cwestiynau eraill, a ydych yn hapus i dderbyn Rheoliadau Tir Cynnal 2005? Gwelaf eich bod. A ydych hefyd yn hapus i dderbyn Rheoliadau Cerbydau sydd wedi'u Gadael (Cymru) 2005? Gwelaf eich bod.

**Alun Ffred Jones:** The delay suggests that perhaps a slightly simpler and more straightforward settlement would help the Assembly to work more effectively, but that is another matter.. Are you also happy to support the Abandoned Vehicles (Wales) Regulations 2005? I see that you are.