

# Abandoned Cars

## A Consultation Document

October 2001

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Department for Environment, Food and Rural Affairs

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# SECTION 1

## Introduction

1. Abandoned cars are a blight on our environment. The Government is determined to tackle this problem, which has grown substantially in recent years. In a speech on 24 April 2001 on improving local environments, the Prime Minister said:

"Abandoned cars are a major and increasing problem in many areas. They encourage crime and make an area look squalid and run down. According to an RAC survey, 10,000 cars were dumped in Birmingham last year alone.

We will press for the maximum fines to be imposed on those people abandoning vehicles where they can be traced. Local authorities need to be able to deal with abandoned vehicles quickly. Two pilot schemes, in Newham and Lewisham, are now looking at the scope for local authorities to wheel clamp untaxed, nuisance vehicles and remove them after 24 hours. If these pilots are successful we will roll this scheme out nationally."

2. The purpose of this consultation document is to set out how the Government proposes to take forward that commitment and to seek views on a range of proposals designed to combat the growing problem of abandoned vehicles. The consultation seeks views on two groups of issues:
  - Immediate changes to regulations and other short-term measures designed to give local authorities greater opportunity to deal with abandoned cars;
  - Longer-term principles concerning how the registration and licensing of vehicles are administered, to ensure that keepers of vehicles cannot evade their legal responsibilities.
3. Views are sought on a range of issues set out below. A list of specific questions on which the Government is seeking views is annexed to this document but views are welcomed on any aspect of the abandoned cars problem. If you wish to respond to this consultation, please send your response by 31 January 2002 to:

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## SECTION 2

# Background

4. This consultation seeks to address concerns arising from vehicles abandoned by their owners on public open land, including highways. Such vehicles are unsightly, can cause an obstruction; are a potential danger to children and if vandalised and set on fire create further risks to the public. It is generally recognised that the problem of vehicles abandoned has increased substantially in recent years although no national statistics are collected.
5. In the absence of national statistics, reports from local authorities suggest that up to 350,000 cars were dumped in 2000, against some 1.8 million being scrapped. However, there is no doubt that the number of vehicles being reported to local authorities as dumped has increased dramatically in recent years, often by a factor of four or five. The increase in public concern reflects this.
6. The underlying cause of the rapid growth is the collapse in the price of scrap metal, from about £35 per tonne in 1998 to about £10 per tonne today. Thus rather than receiving payment for old vehicles, owners currently receive nothing or may have to pay dismantlers to take them away (typically up to £40 per vehicle). (In general a scrap merchant will not charge for disposing of a delivered vehicle, because his disposal costs are recouped from the value of scrap steel.) This effect has been exacerbated by the fall in used-car values, in particular relative to the costs of keeping them roadworthy.
7. The large majority of vehicles reported as abandoned – and in practice virtually all of those removed by local authorities – are unlicensed, and do not display a current tax disc. The last named owner on the vehicle record is unlikely to admit ownership, and in many cases vehicles will have been sold on without the Driver and Vehicle Licensing Agency (DVLA) being notified. It is clear that many older vehicles are changing hands at very low prices without documentation. There is also a clear link between unlicensed vehicles and their use in crime; criminals often pool unlicensed vehicles.
8. It is also evident that a significant proportion – as many as 40% – of cars reported as abandoned are reported on more than one occasion in different locations. It appears that cars are left by the roadside and only moved when they are reported and notice of removal is attached to the car. At this point they are moved to another location, where the process is repeated.

## SECTION 3

# Existing legal powers and responsibilities

### SANCTIONS AGAINST THOSE ABANDONING VEHICLES

9. Abandoning vehicles is a criminal offence under the Refuse Disposal (Amenity) Act 1978, carrying a maximum penalty of a fine of £2500 or three months' imprisonment, or both. In practice, the difficulties in tracing the person currently in possession of the vehicle mean that the number of prosecutions is negligible.
10. End of life vehicles are to be classified as hazardous waste under the Hazardous Waste List. The maximum penalties for the unlawful deposit or disposal of such waste under the Section 33 of the Environmental Protection Act 1990 are, in a magistrates' court, six months' imprisonment or a fine of £20,000, or both; and, in the Crown Court, five years' imprisonment or an unlimited fine, or both.

### POWERS AND RESPONSIBILITIES TO REMOVE VEHICLES

11. Local authorities (district and unitary) have a statutory duty under the Removal and Disposal of Vehicles Regulations 1986, made under the Refuse Disposal (Amenity) Act 1978 and the Road Traffic Regulation Act 1984 to remove vehicles abandoned in the open air. Local authorities are obliged to notify the owner of the vehicle either by attaching the notice to the vehicle or delivering it to the address of the last known keeper. They must allow the following notice periods to expire before the vehicle can be removed:
  - 15 days if the vehicle has been abandoned on private land
  - 7 days if the car is abandoned on the highway and is in such a condition that it has no value
  - 21 days if the vehicle is abandoned on the highway and has some value (a subsequent notice of 14 days may be issued to enable the local authority to make further enquiries)
12. Section 101 of the Road Traffic Regulation Act 1984 gives powers to competent authorities (i.e. local authorities and police) to dispose of vehicles that have been abandoned. Where a local authority is of the opinion that a vehicle is in a condition in which it ought to be destroyed, and it does not have a current licence displayed, the vehicle can be destroyed immediately. If a vehicle is in a similar poor condition, but has a licence displayed, the vehicle can only be destroyed after the licence expires. Where a vehicle is not in a poor condition, a local authority has to take steps to find the owner of the vehicle. If the local authority fails to find the owner, or if the owner fails to comply with the notices served on him, the local authority can dispose of the vehicle after the expiry of the licence, if it is in force. In practice, only those vehicles that are unlicensed are ticketed for removal and a significant proportion of those (typically half) are moved before the notice period expires.

13. Under the Removal and Disposal of Vehicles Regulations 1986, made under Section 99 of the Road Traffic Regulation Act 1994, the police have powers to move a vehicle where it is dangerous or a hazard to traffic. Vehicles are normally either removed to a pound or to a location on the highway where they no longer pose a hazard.
14. The DVLA is responsible for maintaining the vehicle record and licensing vehicles. The Secretary of State has powers under the Vehicle Excise and Registration Act 1994 to appoint contractors with the powers to clamp and then remove unlicensed vehicles. Owners are required to take out a new licence and pay release fees and any storage costs before a vehicle is released.
15. The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 set out the conditions for the clamping, removal, storage and disposal of unlicensed vehicles. The regulations state that a vehicle cannot be disposed of unless the name and address of the owner cannot be ascertained, or the owner fails to comply with a notice served on him by post, giving him 14 days from the date on which the notice was served to remove the vehicle from the custody of the custodian. Vehicles have to be stored for five weeks beginning on the date that the vehicle was removed before they can be disposed of. These regulations apply throughout the United Kingdom.
16. Experience shows that 40% of vehicles wheelclamped for VED evasion are released within 24 hours and of the vehicles that are impounded, only some 7% are released. The remaining unclaimed vehicles are disposed of either by sale at auction or crushing. In practice, most vehicles are of no value and are crushed.
17. From April 2002, the End of Life Vehicles Directive will start to have practical effect. This may have a considerable effect on the disposal of end-of-life vehicles. In summary, the Directive will:
  - Require from 2007 the producer to meet all, or a significant part of, the costs of collection and treatment of vehicles that have no or negative value;
  - Require from April 2002 that vehicles cannot be removed from Member States' vehicle records until an approved Certificate of Destruction has been issued, showing that the vehicle has been or is to be transferred to an approved treatment centre;
  - Oblige treatment facilities to meet tightened environmental standards and remove polluting components from vehicles as set out in Annex 1 of the Directive, from April 2002.
18. The Government has recently launched a consultation on measures to implement the Directive in the UK; transposition is required by April 2002.
19. The Directive states that from 1 January 2002 producers are to meet all or a significant part of the costs of take-back and treatment for vehicles put on the market as from this date. Then from 1 January 2007, they have to meet all or a significant part of the treatment costs for all vehicles, including those put on the market before 2002. However, the Directive does not say who should pay for the costs of pre 2002 vehicles between 2002 and 2007 – although producers may also be asked to contribute during this period. The costs of treatment could be around £100 per vehicle and could mean an overall cost – for the 1.8 million vehicles scrapped each year – of about £180 million per annum. There is a risk that the increased costs of treatment will exacerbate the problem of abandoned vehicles. The issue of how improved treatment and recycling costs will be apportioned remains under discussion between Government Departments and with industry.

## SECTION 4

# Short-term proposals

20. The Government believes that local authorities are best placed to deal with local concerns and respond to local circumstances in dealing with abandoned cars. In the short term, therefore, the Government's approach is to enhance the tools available to local authorities to deal with abandoned cars, to enable them to do so more quickly and more efficiently. It proposes to do this by:
- Reducing the notice periods after which it is possible for local authorities to remove vehicles;
  - Reducing the notice periods after which it is possible for DVLA and its contractors to destroy unlicensed vehicles that have already been removed;
  - Empowering Local Authorities to use DVLA powers to remove unlicensed vehicles;
  - Enabling local authorities to access information from the DVLA database more quickly and easily;
  - Promoting best practice.

### **REDUCTION OF NOTICE PERIODS BEFORE REMOVING VEHICLES**

21. The Government believes that a key part of a strategy to deal with abandoned vehicles is to reduce the notice periods between the issuing of a notice to a vehicle and its removal. The notice periods mean that decrepit and usually unlicensed vehicles cannot be removed from the streets quickly, and many of those to which notices are attached are vandalised or burned out, creating additional hazards. Moreover, there is consistent evidence that unlicensed vehicles, once a notice is attached, are moved to another location, where they are in turn reported as abandoned, exacerbating the general problem as well as wasting local authority and police resources. Once vehicles are removed, storing them can be expensive and requires secure facilities.
22. There is already some evidence that local authorities are removing vehicles immediately, using powers to designate them as hazards. This approach has been widely supported in local communities and has attracted little or no criticism, although it is acknowledged that there may be risks in doing so. These proposals will remove legal uncertainty and send clear messages that leaving unlicensed vehicles by the roadside will not be tolerated.
23. At the same time, it is important to ensure that notice periods are appropriate to the vehicles with which they deal. It is reasonable that a vehicle that is clearly decrepit or of no value should be subject to a shorter notice period than one which is clearly of value, as the circumstances surrounding each vehicle differ. Moreover, it is essential to have regard to the provisions of the Human Rights Act concerning the security of property. Reduced notice periods brings a risk that vehicles are removed and destroyed more quickly leading to claims from owners for compensation from the local authority concerned. Local authorities will have to make a judgement between the benefits of removing these vehicles more quickly and the disbenefits that hasty action might result in claims against them.

## **PROPOSED CHANGES TO THE REMOVAL AND DISPOSAL OF VEHICLES REGULATIONS 1986**

24. The Government therefore proposes to change the notice period for vehicles abandoned on the highway and on private land in England (changes to the Regulations in Scotland, Wales and Northern Ireland are a matter for the devolved administrations). In the case of vehicles which the local authority consider have no value, i.e. in such a condition that they ought to be destroyed, we propose to reduce the notice period from the present 7 days to 24 hours. Key criteria in determining whether the vehicle is of value will be condition – in particular the viability of bringing it up to a roadworthy condition – and whether or not it is licensed, and the Government believes that the large majority of abandoned cars will fall into this category.
25. For vehicles abandoned on the highway but with some value it is proposed to reduce the notice period from the present 21 days to a period falling between 7 and 14 days.
26. The Government further proposes that the notification periods for vehicles abandoned on private land be brought into line with those for vehicles abandoned on the highway, as described above.
27. The Government recognises that the operation of these changes is strongly dependent on judgements by local authority staff about whether a vehicle has value. But, taken together, we believe these proposals will strike a balance between the need to remove abandoned vehicles quickly from the roads and the importance of protecting members of the motoring public who are legitimately parked. However, the Government would welcome views on the reduced notice periods set out above.

## **NOTICE PERIODS FOR REMOVING UNLICENSED VEHICLES**

28. It is at the same time intended to reduce the timescales within which unlicensed vehicles can be destroyed once they have been removed under the powers in the Vehicle Excise and Registration Act. The proposed reductions are as follows:
  - For vehicles of value, reduction from 35 to 14 days.
  - For vehicles without value, reduction from 35 days to 7 days.
  - Notice period within which the keeper can claim the vehicle after notice has been served, from 14 days to seven days for vehicles of value and three days for vehicles of no value.
29. In summary, these proposals would make dealing with unlicensed vehicles more cost effective, to the particular benefit of local authorities acting as DVLA contractors (see below).

## **EMPOWERING LOCAL AUTHORITIES TO USE POWERS AGAINST UNLICENSED VEHICLES**

30. The provisions of the Vehicle Excise and Registration Act 1994 applying to the removal of unlicensed vehicles give the Secretary of State powers to appoint contractors to undertake



this work. Initially, this function has been exercised through a contractor acting for DVLA. However, pilot schemes are currently under way in the London boroughs of Lewisham and Newham in which the local authority acts as DVLA's contractors, removing and impounding unlicensed vehicles. Although those pilots have yet to be evaluated, the Government believes in principle that other local authorities should be able to act as DVLA contractors.

31. This arrangement can bring benefits both to local authorities participating in the scheme – through enhancing their ability to remove unlicensed vehicles – and to the exchequer, by combatting VED evasion, in particular by inducing relicensing among potential evaders in the locality where the arrangement is in operation.
32. While acting as DVLA contractors local authorities would be obliged to meet a code of conduct, currently being developed following the Newham and Lewisham pilots, to ensure consistency of standards.

### **IMPROVING LOCAL AUTHORITY ACCESS TO VEHICLE INFORMATION**

33. The Government recognises the importance of ensuring that local authorities are able to obtain information about the keepers of vehicles, and whether or not vehicles are licensed. The process of tracing the last registered keepers of vehicles has largely been undertaken through the sending of paper enquiries to DVLA, often taking several days, or through an overnight IT-link to DVLA, which has hitherto been costly (although some 150 local authorities have taken it up). The Government proposes to address this issue by:
  - Making information on registered keepers available to local authorities through a web-based portal, by 2002/3. In the meantime, the Government will examine options for making the existing overnight IT link more widely available for those local authorities that want it;
  - Giving local authorities access to technology to check on-line whether or not a vehicle is licensed. DVLA contractors already have access to handheld devices which enable staff to make checks on the status of a vehicle; it is currently examining WAP based technology which could significantly reduce costs.

### **DISSEMINATING INFORMATION ON BEST PRACTICE**

34. In response to the growing problem, some authorities and police forces have been involved in significant new initiatives to deal with the problem of abandoned cars. As well as the pilot schemes in Newham and Lewisham using DVLA powers to remove unlicensed vehicles described above, initiatives have taken place elsewhere including Operation Cubit in Kent, in which teams drawing on the powers of all three agencies have made a significant impact on local abandoned vehicles problems, and proposals for future initiatives in Sussex. An increasing number of local authorities have schemes in place to collect vehicles at the end of their lives, for a small charge or in some cases for free.
35. The Government believes that it is essential to disseminate good practice as widely as possible. It therefore intends to work with local authorities to establish a web-based method of exchanging information and best practice on dealing with abandoned cars.

## SECTION 5

# Longer term proposals

36. In the longer term, the Government believes that stringent measures are needed to ensure that all vehicles can be associated with a registered keeper who has clear responsibility for ensuring that the vehicle is operated legally, and who remains responsible for civil and criminal penalties arising from misuse of that vehicle while it is in his possession.
37. As noted above, there are currently difficulties in ensuring that vehicles are licensed and properly registered. While work undertaken within Government indicates that the vehicle record held by the DVLA is approximately 92-94% accurate, this still implies that there may be as many as two million vehicles for which it is not currently possible to trace a keeper. It is estimated that some 80% of abandoned vehicles are unlicensed and have no current keeper on the vehicle record. Similar difficulties occur in tracing vehicles used in crime, or which fail to stop after an accident. Moreover, there is a risk that increased use of speed cameras, parking enforcement and congestion charging will increase the incentive for some vehicle keepers to opt out of the vehicle registration system.
38. The current trend towards lower second-hand car prices, with vehicles often changing hands for no more than a few pounds, has exacerbated the problem at the heart of this issue – the ease with which cars have hitherto been able to change hands without DVLA being notified of the change.

### CURRENT POSITION

39. The Vehicle Excise and Registration Act 1994 provides that all vehicles that are used and kept on the public road must be registered and licensed. If they are not currently licenced because they are being kept off the road, the keeper is required to sign a Statutory Off-Road Notification (SORN), which must be renewed annually. These requirements should in theory ensure that DVLA has contact with the keeper of a vehicle at least once per year. However, there appears to be widespread ignorance of SORN requirements. A recent two-week publicity campaign, featuring national newspaper advertising, resulted in an increase in requests to DVLA for SORN forms of over 250%.
40. The law also requires that DVLA should be notified of any change in the keeper of the vehicle. Until 1997, responsibility lay with the new keeper to notify DVLA of the change, by returning the vehicle registration document. A new system of vehicle registration, dual notification, was introduced in March 1997, requiring both parties to the change to sign the registration document, with responsibility for sending it to DVLA lying with the keeper selling the vehicle. This transaction requires a new-style vehicle registration document that has been issued by DVLA in response to all registration transactions since 1997. However, there remain in existence several million old-style vehicle registration documents, for vehicles where no change of keeper or change of particulars has been notified since March 1997; and it remains difficult to take enforcement action – such as prosecution for failure to notify – against those who have not informed DVLA of a change.
41. The existence of old-style registration documents clearly offers an opportunity for vehicles

to be transferred between keepers without DVLA being notified. And even though dual notification has meant that the Agency tends to be informed earlier of changes, it is notable that up to 2.5 million changes of keepership per year are notified through free-standing applications for a new vehicle registration document (V62).

42. Following the passage of the Vehicle Crime Act 2000, a number of initiatives are being pursued to tighten up the vehicle registration process, including a requirement to produce a vehicle registration document when licensing a vehicle without a standard DVLA reminder, and the introduction of identity checks for applications for a vehicle registration document using form V62.
43. The Government considers that the time is right to consider more fundamental changes to the vehicle registration system, to block further the loopholes that have allowed many cars to slip through the system, and to ensure that the vehicle record is more accurate in future. The options set out below offer some pointers to how this might be done, drawing on examples of practice from elsewhere in Europe. The Government would welcome views on these and any other proposals.

### **APPROACHES TO TIGHTENING THE VEHICLE RECORD**

44. It is clearly important to ensure that the risk that vehicles can be lost from the vehicle record is greatly reduced. In theory, dual notification and the SORN system should prevent this from happening; the weakness in the system remains the point at which a change of keeper is notified. The question that therefore needs to be addressed is that of how that particular transaction might be made more rigorous.
45. A key element in such an approach would be the continued fiscal responsibility of the former keeper. Under the current system, it has been relatively easy for the keeper to disown responsibility for the vehicle, claiming that he no longer has the vehicle in his possession. The Government therefore believes that, the registered keeper should retain fiscal responsibility for that vehicle – i.e. responsibility for taxation and any other charges such as parking and speeding fines associated with that vehicle – unless he can demonstrate that he has notified DVLA that the vehicle is no longer in his possession. It believes that there should be presumption that the vehicle is in use by the registered keeper unless a SORN declaration has been received. The Government recognises the need to ensure that any such legislation is fully compliant with Human Rights legislation.
46. The Government also favours a review of penalties, to increase the deterrent against VED evasion, and would welcome views on whether wider sanctions like the confiscation of vehicles would be appropriate.

### **TRANSFER OF VEHICLES**

47. Implicit in the above approaches is a much greater degree of control over the transfer of vehicles. In many European countries it is necessary formally to register the transfer of a vehicle at a Government office or post office, producing proof of identity. The Government would welcome views on how the procedures surrounding the transfer of vehicles could be tightened – and in particular whether electronic and possibly web-based arrangements for registering transfers of vehicles might enable the striking of a balance between the need for security and the convenience of those making legitimate transfers of

vehicles.

48. A particular difficulty arises in dealing with transfers of vehicles within the motor trade. Typically a vehicle can be expected to change hands several times within the trade before it is sold on to a member of the public. While one approach would be mandatory notification to DVLA of the movement of vehicles within the trade, DVLA is working towards an electronic solution to tracking vehicles, and is undertaking a pilot scheme under which participating dealers will notify DVLA electronically that a vehicle has passed through their hands. The Government would welcome any views on how such a scheme could be developed.
49. The measures set out above are indicative but make it clear that tightening vehicle registration will involve a considerable cultural change in the way the motoring public in the United Kingdom views the transfer of vehicles. The Government's view is that the difficulties caused when a vehicle cannot be matched to a keeper – which extend well beyond those caused by abandoned cars – mean that the balance needs now to be shifted towards tighter regulation. However, the public's views are sought on this point.

# SECTION 6

## Conclusions

In summary, the Government is seeking views on whether:

### SHORT TERM MEASURES

- the notice periods for removing vehicles under the Removal and Disposal of Vehicles Regulations 1986 should be reduced, and whether the Government's proposals are appropriate;
- the notice periods under the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 relating to the notification and disposal of unlicensed vehicles should be reduced;
- Local authorities should take on the role of contractor for clamping and removing unlicensed vehicles, using those powers to remove vehicles;
- The Government should take measures to allow local authorities easier and faster access to the DVLA vehicle record, for enforcement purposes;

### LONGER TERM MEASURES

- the United Kingdom should move to a system of continuous registration;
  - keepers of vehicles should retain fiscal responsibility for vehicles unless they can demonstrate that they have notified DVLA of the transfer or destruction of the vehicle;
  - the procedures surrounding the transfer of vehicles should be tightened, with both parties being required to register the transfer.
50. The above questions are not exclusive and we would welcome any other comments that respondents might wish to make about dealing with abandoned vehicles, reflecting the need to find practical and affordable approaches to this problem.