

STATES OF JERSEY



DRAFT REMOVAL OF VEHICLES (PRIVATE LAND) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 11th April 2016
by the Minister for Housing

STATES GREFFE



Jersey

DRAFT REMOVAL OF VEHICLES (PRIVATE LAND) (JERSEY) REGULATIONS 201-

REPORT

1. Introduction

- 1.1 The Draft Removal of Vehicles (Private Land) (Jersey) Regulations 201- (the “draft Regulations”) provide limited powers to Andium Homes and the Ports of Jersey to remove any vehicle parked on land that they administer, which is causing, or is likely to cause, a security risk, danger, nuisance or obstruction, and to dispose of the vehicle if it is not claimed by the owner.
- 1.2 The draft Regulations set the procedures and timeframes that Andium Homes and the Ports of Jersey must follow to remove any vehicle that has been parked on their land without permission. The draft Regulations would ensure that Andium Homes and the Ports of Jersey could remove unauthorised vehicles parked in spaces reserved for their tenants or service users, as was the case before they were incorporated in July 2014 and October 2015 respectively.
- 1.3 The draft Regulations are triennial Regulations and, if adopted by the States Assembly, the Regulations will remain in force for no longer than 3 years. The Department for Community and Constitutional Affairs hopes to bring forward draft legislation that makes suitable provision for the removal of unauthorised vehicles on all private landowners’ property before the end of this 3 year period.

2. Background

- 2.1 When ownership of the States of Jersey social housing stock transferred to Andium Homes on 1st July 2014, the powers that the former Housing Department had under the Road Traffic (Removal of Vehicles) (Jersey) Order 1963 ceased in respect of all land owned, leased or managed by Andium Homes. The same is true in respect of all land assets transferred to the Ports of Jersey when it was incorporated on 1st October 2015.
- 2.2 Roads, car parking spaces, pathways and other areas of land are there for the benefit of the clients of Andium Homes and the Ports of Jersey. The draft Regulations therefore seek to provide them with equivalent powers to the ones that they had under the 1963 Order, with some additional safeguards around signage and the removal process.
- 2.3 Andium Homes and the Ports of Jersey monitor their car-parks regularly and, in many cases, will require a permit, key, electronic swipe-card or ticket in order to access them. However, there will be occasions when vehicles are

parked without authorisation or are abandoned, in which case it is necessary to remove the vehicle. For example, during 2015, Andium Homes issued 2,942 warning notices for parking-related issues and 138 warning notices for potentially abandoned vehicles, which could have led to a vehicle being removed if the legal powers had been in place. In the case of the Ports of Jersey, before it was incorporated, 304 tickets were issued during 2015, which could have resulted in an abandoned vehicle being removed.

- 2.4 The Department for Community and Constitutional Affairs is reviewing the broader issue of vehicles that have been parked or abandoned on private land without authorisation. The Department is working with the Department for Infrastructure, Chefs de Police and other stakeholders, to consider how a substantive Law might be framed in order to provide all private landowners a form of protection and redress against the problem of unauthorised vehicles on their land, which would equally encompass Andium Homes and the Ports of Jersey.

3. The draft Regulations

- 3.1 **Regulation 2** specifies that the Regulations apply to any road that is owned, leased or managed by Andium Homes or the Ports of Jersey – “road” being defined as any driveway, parking space, footpath or other area of land that is under the administration of either of these organisations. The Regulations permit an authorised officer of Andium Homes or the Ports of Jersey to remove a vehicle that has broken down, or has been left unauthorised, on a road that belongs to them. Where the authorised officer is of the opinion that a vehicle has been left such that it is causing a security risk, danger, nuisance or obstruction to other people using the road, or a vehicle has been abandoned, the officer will be permitted to remove the vehicle provided that there is signage on the road on which the vehicle is situated, or in the vicinity of the road.
- 3.2 In addition, Regulation 2 provides that an authorised officer, where he is satisfied that the above circumstances have been fulfilled, may move or remove the vehicle, or arrange for it to be moved or removed to another site in the safe custody of Andium Homes or the Ports of Jersey. If the owner of the vehicle is present, and refuses to remove the vehicle, a police officer must be present when the vehicle is removed. Any expenses that are incurred by Andium Homes or the Ports of Jersey in moving or removing the vehicle is recoverable as a civil debt from the owner of the vehicle, and the vehicle may be retained until the owner has paid any expenses.
- 3.3 **Regulation 3** deals with the removal of vehicles from car-parks under the administration of Andium Homes or the Ports of Jersey, which are for use by service users of either company. Where a vehicle has been left in a parking space when it is unauthorised to do so, an authorised officer will be permitted to remove the vehicle, provided that clear signage is on display to warn that any vehicle that is not authorised to be in the car-park is liable to be removed.
- 3.4 **Regulation 4** makes provision for procedures and timeframes in respect of the removal of vehicles from Andium Homes or Ports of Jersey land. Where a vehicle has been removed, it must be kept for no less than 6 weeks before it can be disposed of. In this time, an authorised officer must take steps to notify the owner of the vehicle to warn that the vehicle, if it is not claimed, will be disposed of. In taking steps to notify the owner, the authorised officer may seek the name and address of the person from the Inspector of Motor Traffic.

3.5 The proceeds of any sale may be used by Andium Homes or the Ports of Jersey to satisfy the costs incurred in relation to the disposal of the vehicle, and any balance of the sale shall be payable to the vehicle's owner or, if not claimed after a year, payable to the States.

4. Financial and manpower implications

4.1 There are no financial or manpower implications for the States arising from the adoption of the draft Regulations.

Explanatory Note

These Regulations provide limited powers to Andium Homes Limited and Ports of Jersey Ltd to remove, or cause to be removed, any vehicle parked on a road situated on land owned, leased or otherwise managed by them (“Andium land” or “Ports of Jersey land”, as the case may be) that is causing or is likely to cause a security risk, danger, nuisance or obstruction, and to dispose of the vehicle if it is not claimed.

Regulation 1 contains definitions used in these Regulations.

Regulation 2(1) provides for the scope of the Regulations. They apply in respect of a vehicle that has broken down or has been permitted to remain at rest on a road (“road” includes any driveway, parking place, footway or other place on Andium land or Ports of Jersey land).

These Regulations also only apply in relation to a vehicle if an authorized officer of Andium Homes Limited, or Ports of Jersey Ltd (as the case may be) is of the opinion that the position or condition of the vehicle or the circumstances in which the vehicle has been left are such that the vehicle is causing or is likely to cause a security risk, danger, nuisance or obstruction to another person using the road, or where the vehicle has been abandoned and is not authorized to be on the road. The Regulations will only apply if there is signage on the road on which the vehicle is situated, or a road within the vicinity of that road, to indicate that the road is situated on Andium land or Ports of Jersey land, as the case may be.

Regulation 2(2) provides that an authorized officer may require the owner (if he or she is present with the vehicle) to move the vehicle, or cause it to be moved to another part of the road or to another road, as may be specified by the authorized officer; or remove the vehicle or cause it to be removed from Andium land or Ports of Jersey land, as the case may be.

By *Regulation 2(3)*, the authorized officer must show his or her authorization to the owner of the vehicle if requested to do so.

By *Regulation 2(4)*, if the owner refuses to move or remove the vehicle, an authorized officer may move or remove it himself or herself, or cause it to be moved or removed, but only if a police officer is present (or, in a case where the vehicle is on Ports of Jersey land, the Airport Director or Harbour Master is present) and the police officer, Airport Director or Harbour Master, as the case may be, is satisfied that the owner has been shown the authorization of the authorized officer. By *Regulation 2(5)*, the police officer, Airport Director or Harbour Master may also move or remove the vehicle but, if a police officer removes it, he or she must give custody of the vehicle to Andium Homes Limited, where the vehicle was removed from Andium land, or to Ports of Jersey Ltd, where the vehicle was removed from Ports of Jersey land.

By *Regulation 2(6)*, if the owner is not present with the vehicle, an authorized officer may move or remove the vehicle or arrange for it to be moved or removed without the need for a police officer (or in the case of Ports of Jersey land, the Airport Director or Harbour Master) to be present.

Regulation 2(7) provides the method by which a vehicle may be moved or removed and *Regulation 2(8)* requires that arrangements are made for the safe custody of a vehicle removed under these Regulations.

Regulation 2(9) provides for expenses reasonably incurred by Andium Homes Limited or Ports of Jersey Ltd to be recoverable as a civil debt from the owner of the vehicle and provides that the vehicle may be retained until the owner has paid any expenses.

Regulation 2(11) confirms that nothing in Regulation 2 prevents a police officer, or the Airport Director or Harbour Master, from moving or removing a vehicle on Andium land or Ports of Jersey land under any other power vested in him or her.

Regulation 3 provides for the removal of vehicles from a parking place on Andium land or Ports of Jersey land if the parking place is clearly marked as a space that is allocated for use by a particular person or class of person or for the parking of a particular vehicle or class of vehicle, or the vehicle that has been left in the parking place is not authorized to be left there; and there is a notice, clearly visible from the parking place that indicates that the space is allocated for use by a particular person or class of person or for the parking of a particular vehicle or class of vehicle, warns that any vehicle that is not authorized to be parked in the parking place is liable to be removed, and gives the telephone number of the person having custody of any removed vehicle. (In the case of car parks, it is sufficient for the notice to be placed at the entrances and exits.)

Regulation 4(1) provides that a vehicle that has been removed from Andium land or Ports of Jersey land, as the case may be, must be kept for not less than 6 weeks and shall not be disposed of other than in accordance with Regulation 4.

Regulations 4(2) to (6) set out the steps that must be taken by an authorized officer to try to notify the owner of the vehicle that it has been removed, the means by which the vehicle may be recovered and a warning that, if not claimed, it will be disposed of.

Regulation 4(7) provides that the vehicle may not be sold or disposed of except where it appears that it has been abandoned.

Regulations 4(8) and (9) provide that the proceeds of sale of a vehicle are to be applied in or towards the satisfaction of any costs incurred in connection with its disposal and for the recovery of any outstanding costs. *Regulation 4(10)* provides for the balance of the proceeds of sale to be payable to the owner of the vehicle or, if not claimed after a year, they will be payable to the States.

Regulation 5 provides the method by which notices are to be served.

Regulation 6 provides the title of these Regulations and for them to come into force 7 days after they are made. These Regulations, unless revoked earlier, will expire 3 years after they are made.



Jersey

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Arrangement

Regulation

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Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of the Order in Council dated 28th March 1771¹,
have made the following Regulations –

1 Interpretation

(1) In these Regulations, unless the context otherwise requires –

“Andium land” means –

- (a) land owned by Andium Homes Limited; and
- (b) any other land that is leased to or otherwise managed by Andium Homes Limited;

“Airport Director” means the person appointed as such under Article 2 of the Aerodromes (Administration) (Jersey) Law 1952²;

“authorized officer” means –

- (a) in relation to a vehicle which is on any Andium land, a person authorized by Andium Homes Limited;
- (b) in relation to a vehicle which is on any Ports of Jersey land –
 - (i) the Harbour Master,
 - (ii) the Airport Director, or
 - (iii) a person authorized by the Ports of Jersey Ltd;

“custodian” in relation to a vehicle means Andium Homes Limited, in a case where a vehicle has been removed from Andium Homes land and is in the custody of Andium Homes Limited, and Ports of Jersey Ltd, in a case where a vehicle has been removed from Ports of Jersey land and is in the custody of Ports of Jersey Ltd;

“owner” in relation to a vehicle means the owner, driver or other person in control or in charge of the vehicle and, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement;

“Harbour Master” means the person who is appointed as such under Article 2 or 2A of the Harbours (Administration) (Jersey) Law 1961³;

“parking place” means a place allocated for the parking of a vehicle or a vehicle of any class or description;

“Ports of Jersey land” means –

- (a) land owned by Ports of Jersey Ltd; and
- (b) any other land that is leased to or otherwise managed by Ports of Jersey Ltd;

“road” includes any driveway, parking place, footway or other place on Andium land or Ports of Jersey land;

“trailer” means any vehicle drawn by another vehicle;

“vehicle” includes a trailer.

- (2) References in these Regulations to moving, causing to move, removing, causing to remove, making arrangements for the safe custody of or selling or otherwise disposing of a vehicle include references to moving, causing to move, removing, causing to remove, making arrangements for the safe custody of or selling or otherwise disposing of any load carried by the vehicle.

2 Removal of vehicles that are abandoned or causing a security risk, danger, nuisance or obstruction on Andium land or Ports of Jersey land

- (1) This Regulation applies where –
 - (a) a vehicle has broken down or has been permitted to remain at rest on a road;
 - (b) an authorized officer is of the opinion that the position or condition of the vehicle or the circumstances in which the vehicle has been left are such that –
 - (i) the vehicle is causing or is likely to cause a security risk, danger, nuisance or obstruction to another person using the road, or
 - (ii) the vehicle has been abandoned;
 - (c) the vehicle is not authorized to be on the road; and
 - (d) there is signage on the road on which the vehicle is situated, or on another road within the vicinity of the road, to indicate that the road is situated on Andium land or Ports of Jersey land, as the case may be.
- (2) If the owner is present with the vehicle, an authorized officer may require the owner, immediately or within such time as may be specified, to –
 - (a) move the vehicle, or cause it to be moved to another part of the road or to another road, as may be specified by the authorized officer; or
 - (b) remove the vehicle or cause it to be removed from Andium land or Ports of Jersey land, as the case may be.
- (3) The authorized officer, when requiring a vehicle to be moved or removed under paragraph (2), shall upon request of the owner of the vehicle show the owner his or her authorization.

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- (4) If an owner of a vehicle fails to move or remove the vehicle or cause it to be moved or removed as reasonably required by an authorized officer under paragraph (2), if a police officer is present (or, in a case where the vehicle is on Ports of Jersey land, the Airport Director or Harbour Master is present) and is satisfied that owner has been shown the authorization of the authorized officer requiring the vehicle to be removed, the authorized officer may –
 - (a) move the vehicle, or cause it to be moved to another part of the road or to another road; or
 - (b) remove the vehicle or cause it to be removed from Andium land or Ports of Jersey land, as the case may be.
 - (5) Despite paragraph (4), a police officer may remove a vehicle or cause a vehicle to be removed from Andium land, or Ports of Jersey land, as the case may be, (and in the case of the vehicle being on Ports of Jersey land, the Airport Director or Harbour Master may remove a vehicle or cause a vehicle to be removed from Ports of Jersey land) that the owner fails to move or remove under paragraph (4) and if the vehicle is removed by a police officer he or she shall as soon as reasonably practicable, give custody of the vehicle to Andium Homes Limited, where the vehicle was removed from Andium land, or to Ports of Jersey Ltd, where the vehicle was removed from Ports of Jersey land.
 - (6) Where the owner of the vehicle to which paragraph (1) applies is not present with the vehicle, an authorized officer may –
 - (a) move the vehicle, or cause it to be moved to another part of the road or to another road; or
 - (b) remove the vehicle or cause it to be removed from Andium land or Ports of Jersey land, as the case may be.
 - (7) Any person moving or removing a vehicle under this Regulation may do so by towing or driving the vehicle or in such other manner as he or she may think reasonably necessary and may take such measures in relation to the vehicle as he or she may think reasonably necessary to enable him or her to move or remove it and for the custody of it.
 - (8) Where an authorized officer removes or causes the removal of a vehicle from a road under this Regulation, he or she shall make such arrangements as may be reasonably necessary for the safe custody of the vehicle.
 - (9) Where a vehicle is taken into custody under this Regulation –
 - (a) any expenses reasonably incurred by the custodian of the vehicle in exercising their powers under paragraph (4) or (6) shall be recoverable as a civil debt from the owner of the vehicle; and
 - (b) the vehicle may be retained by the custodian of the vehicle until the owner has paid any expenses referred to in sub-paragraph (a).
 - (10) For the purpose of paragraph (1)(a), a vehicle that has broken down and has remained at rest for any period in any position on a road shall be treated as if it had been permitted to remain at rest in that position throughout that period.

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- (11) Nothing in this Regulation shall prevent –
- (a) a police officer from moving a vehicle on Andium land or Ports of Jersey land, or causing it to be moved, or removing or causing it to be removed, under any other power vested in him or her; or
 - (b) the Airport Director or Harbour Master from moving or removing a vehicle on Ports of Jersey land under any other power vested in him or her.

3 Removal of vehicles from parking places

- (1) An authorized officer or a police officer, or the Airport Director or Harbour Master, shall not remove a vehicle from a parking place under Regulation 2(4) or (6) unless the authorized officer, police officer, Airport Director or Harbour Master, as the case may be, is reasonably satisfied that –
- (a) the parking place in which the vehicle has been left is clearly marked as a space that is allocated for use by a particular person or class of person or for the parking of a particular vehicle or class of vehicle;
 - (b) the vehicle that has been left in the parking place is not authorized to be left there; and
 - (c) there is a notice that is clearly visible from the parking place that –
 - (i) indicates that the space is allocated for use by a particular person or class of person or for the parking of a particular vehicle or class of vehicle,
 - (ii) warns that any vehicle that is not authorized to be parked in the parking place is liable to be removed, and
 - (iii) gives the telephone number of the person having custody of any removed vehicle.
- (2) Where a vehicle is parked in an area used as a carpark which has a clearly defined entrance and exit for vehicles (and whether or not access through that entrance or exit is controlled by a barrier) the requirements described in paragraph (1)(a) and (c) shall be satisfied if there is placed at each such entrance and exit a notice with the information described in paragraph (1)(c).

4 Disposal of vehicles removed from Andium land or Ports of Jersey land

- (1) A vehicle that has been removed from Andium land or Ports of Jersey land, as the case may be, must be kept by the custodian for not less than 6 weeks and shall not be disposed of other than in accordance with this Regulation.
- (2) Where a custodian does not know the name and address of the owner of a vehicle that has been removed under Regulations 2 or 3, if the vehicle carries a registration mark assigned under the Motor Vehicle Registration (Jersey) Law 1993⁴ the custodian shall request the Inspector of Motor Traffic appointed under Article 2 of the Motor Traffic (Jersey) Law 1935⁵

- (“the Inspector”) to supply the name and address of the person recorded in the register as the owner of the vehicle.
- (3) Upon request made under paragraph (2), the Inspector –
- (a) shall supply to the custodian the information requested and such other particulars recorded in the register as are, in the opinion of the Inspector, relevant to the circumstances in which the request has been made; and
 - (b) may charge the custodian for supplying any such information but any charge shall not exceed the amount payable by a person under Article 19 of the Motor Vehicle Registration (General Provisions) (Jersey) Order 1993⁶.
- (4) The custodian shall send a notice to the person believed to be the owner, stating –
- (a) a sufficient description of the vehicle for it to be identified;
 - (b) the location from which the vehicle was removed;
 - (c) that it is the intention of the custodian to sell or otherwise dispose of the vehicle on or after a date specified in the notice, being not be less than 2 weeks from the date of the notice and in any event not earlier than 6 weeks from the date of the removal of the vehicle;
 - (d) that the custodian may recover from the owner the costs it has incurred in the removal and storage of the vehicle;
 - (e) the telephone number of the person who the owner should contact for the purpose of recovering the vehicle; and
 - (f) any other information that the custodian may consider to be relevant.
- (5) If a person to whom a notice is sent under paragraph (4) informs the custodian of the name and address of some other person who he or she alleges may be the owner of the vehicle, the custodian shall send a notice with the particulars contained in paragraph (4) to that other person and to any further person who the custodian may, in consequence of the sending of the notice to the said other person, be led to believe may be the owner of the vehicle.
- (6) If the custodian does not know the name and address of the owner of the vehicle, the custodian shall insert a notice in the Jersey Gazette stating that it is the intention of the custodian to sell or otherwise dispose of the vehicle (which shall be sufficiently described in the notice) on or after a specified date (which shall not be less than 2 weeks from the date of the notice and in any event not earlier than 6 weeks from the date of the removal of the vehicle under Regulation 2(1)).
- (7) The vehicle may not be sold or disposed of except where it appears that it has been abandoned.
- (8) On the sale of a vehicle by a custodian, the custodian shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by it in connection with the disposal of the vehicle.
- (9) In the event of any costs incurred by the custodian in connection with the disposal of a vehicle not being satisfied under paragraph (8), the

custodian may recover the costs so far as not satisfied as a civil debt from the person who was the last owner of the vehicle before it was removed from a road either under Regulation 2(4) or 2(5) or after it has been disposed of under this Regulation.

- (10) After deducting the sum recoverable under paragraph (8), the balance (if any) of the proceeds of sale shall be payable within a period of one year from the date of the sale to any person to whom, but for such sale, the vehicle would have belonged and, in so far as any such balance is not claimed within the said period, it shall be credited to the States.

5 Notices

Where under these Regulations a notice is required to be, or may be, sent to a person, the notice shall be sent by registered post or by the recorded delivery service.

6 Citation and commencement

These Regulations may be cited as the Removal of Vehicles (Private Land) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 15.120*
 - ² *chapter 03.035*
 - ³ *chapter 19.060*
 - ⁴ *chapter 25.350*
 - ⁵ *chapter 25.200*
 - ⁶ *chapter 25.350.50*