

STATES OF JERSEY



DRAFT MOTOR VEHICLES (REMOVAL FROM PRIVATE LAND) (JERSEY) LAW 201- (P.112/2018): COMMENTS

**Presented to the States on 14th November 2018
by the Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

1. P.112/2018 [Draft Motor Vehicles \(Removal from Private Land\) \(Jersey\) Law 201-](#) (hereafter “the draft Law”) has been lodged by the Minister for Home Affairs in order to bring forward a framework for the introduction of Regulations in relation to the removal of vehicles parked without permission on private land. It would also enable the Regulations to make vehicle immobilisation and interference on private land (i.e. wheel clamping) an unlawful practice.
2. The Education and Home Affairs Scrutiny Panel received a briefing on the draft Law on Thursday 20th September. Prior to the briefing, the Panel was also provided with a copy of the draft Regulations which can be found at [Appendix 2](#) to the Report accompanying the draft Law.¹ The draft Regulations were also discussed at the briefing with the Policy Principal from the Department for Strategic Policy, Performance and Population.
3. Whilst the Panel has no specific issues to raise on the draft Law itself, it has identified some concerns that should be addressed within the Regulations when they are eventually brought forward to the States Assembly. The Panel intends to conduct a full review of the Regulations when they are lodged *au Greffe*, but is of the opinion that the following issues should be discussed and addressed in advance.

Definition of abandonment

4. The Panel is of the opinion that the definition of abandonment should be clearly defined in the Regulations in order to protect both land owners and vehicle owners. Whilst the Panel notes that confirmation of abandonment can be given at present by a States of Jersey Police Officer or Honorary Police Officer, it should be set out clearly in the Regulations to cover both parties in extenuating circumstances (for example, if someone is incapacitated for an extended period of time (e.g. hospitalised) with no means of informing the land owner).

Definition of contact

5. The Panel notes that Regulation 10 of the draft Regulations, at present, stipulates the process to be followed when serving notice that a vehicle is due to be removed from private land.² The definition of contact in these circumstances should be clearly set out in order to prevent any form of recourse.
6. In the event that a person is ‘served’ a notification by post, it may be possible that, for whatever reason, the person is unable to physically receive the notice. The same could be said for any documents received via electronic means (e.g. e-mail). Although the document will have been served in the requisite timeframe, it may not be noted by the vehicle owner until late in the process. This could give rise to challenge from vehicle owners. In order to better protect the rights of the vehicle owner, the Panel is of the opinion that consideration should be given to notice being provided by registered letter in order to ensure receipt of the notice is recorded.

¹ [P.112/2018](#)

² [P.112/2018](#)

Charges incurred

7. The Panel has concerns in relation to the charges that could be applied for the removal of vehicles from private land. Consideration should be given to how the Regulations will guard against unscrupulous private companies charging excessive amounts for the removal of vehicles from private land.
8. At this stage the Panel would recommend that reference to the levels of charges should be set out within the draft Regulations, with clarification being provided as to what the charges would be used for (i.e. to cover costs of removal of the vehicle). It is the opinion of the Panel that the cost recovery principle should be applied when setting the charge levels. In turn this would provide additional safeguards for land owners, whilst providing a consistent and fair penalty system for vehicle owners.

Conclusion

9. The Panel holds no concerns in relation to the draft Law as lodged; however, the issues it has outlined above should be considered further as the draft Regulations are finalised. The Panel intends to review the draft Regulations in detail once they are lodged *au Greffe*.
10. Subject to the concerns listed above being considered in the continuing development of the draft Regulations, the Panel is in agreement with the purpose, content and rationale of the draft Law and will therefore be supporting it.