

EQUIPMENT THEFT (PREVENTION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Equipment Theft (Prevention) Bill as brought from the House of Commons on 6 March 2023 (HL Bill 112).

- These Explanatory Notes have been prepared by the Home Office with the consent of Lord Blencathra in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The purpose of the Bill is to prevent the theft of All-Terrain Vehicles (ATVs) such as quad bikes. The Bill allows the Secretary of State to make regulations requiring immobilisers and forensic marking to be fitted as standard to all new ATVs that meet the definition set out in the Bill. In addition, the Bill provides the Secretary of State with power to make regulations on the recording of ATV sales (such as, potentially, a requirement to register ATVs covered by the Bill on an appropriate property database). The secondary legislation will define minimum standards for the immobilisers, forensic marking and the type of database which may be used. The Bill also provides a power for the Secretary of State to extend the legislation to other equipment designed or adapted primarily for use in agricultural or commercial settings, such as the construction sector.

Policy background

- 2 The theft of agricultural and construction machinery has a significant impact on businesses and those who rely on this equipment for their livelihood. Thefts also have caused reputational damage to the manufacturer, as businesses and individuals want equipment that is protected against theft.
- 3 All-Terrain Vehicles (ATVs) in particular are desirable to thieves and are vulnerable largely due to a lack of security features. An estimated 900 -1200 quad bikes and ATVs are stolen in England and Wales each year. Findings from the Home Office Commercial Victimization Survey in 2018 showed only 22% of premises in the agriculture, forestry and fishing sector reported to protect their vehicles as a crime prevention measure.¹ After a fall during the pandemic, thefts are now on the increase and this trend is anticipated to continue. Whilst the latest Crime Survey for England and Wales data shows neighbourhood crime has fallen to 1.53 million incidents in year ending September 2022 (compared to 2.01m incidents in the year ending December 2019), the more up-to-date police recorded figures show neighbourhood crime (vehicle crime, burglary, robbery and theft from the person) increased by 16% in the year ending September 2022 compared to the previous year (from 651,137 offences to 753,552 offences), likely related to the easing of lockdown measures and increased footfall on the streets.²
- 4 Latest data published by NFU Mutual in the Rural Crime Report 2022 shows thefts of quad bikes and ATVs cost their customers £2.2 million in 2021.³ While this is almost 11% down on the previous year, the data warns of a recent upward trend. Almost half of quad bike and ATV thefts reported to NFU Mutual last year took place between September and December. The NFU Mutual's report indicates the effects of recent supply chain issues are contributing to a rise in demand for both new and second-hand farm machinery. As waiting lists grow and market values increase, thieves are seeing quad bikes and ATVs as profitable commodities.
- 5 In bringing forward this Bill in the House of Commons, Greg Smith MP consulted manufacturers who set out a clear preference of a legislative requirement specifying minimum standards, as opposed to taking action voluntarily. This legislation will provide a level playing field to manufacturers.
- 6 An immobiliser is a device that allows a vehicle to start only if the correct key or fob is inserted. This means that a quad bike, ATV or other vehicle fitted with an immobiliser is protected against hotwiring or imitation keys from would-be thieves. Importantly, it makes a stolen vehicle harder to sell on, making it less attractive to thieves.
- 7 The introduction of immobilisers in road vehicles had a significant impact on reducing the number of thefts. The proportion of road vehicles with immobilisers fitted increased from 3% to 98% between 1993 and 2013. Home Office research suggests the development and spread of immobilisers reduced vehicle thefts by between 20% and 45% across this period.⁴ Farmers generally replace their quad bike or ATV every three to five years. Given this shorter lifespan compared to cars, it is likely the impact of immobilisers in reducing theft would be seen much

¹ Home Office - Crime against businesses: findings from the 2018 Commercial Victimization Survey: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/829399/crime-against-businesses-2018-hosb1719.pdf

² [Crime in England and Wales: Appendix tables - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/crime-in-england-and-wales/appendix-tables)

³ NFU Mutual Rural Crime Report: [nfu-mutual-rural-crime-report-202222.pdf \(nfumutual.co.uk\)](https://www.nfumutual.co.uk/rural-crime-report-2022)

⁴ Reducing criminal opportunity: vehicle security and vehicle crime: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/489097/horr87.pdf

quicker in quad bikes and ATVs than it was for cars. A 100% uptake will only be seen if it is a legislative requirement and is then subsequently installed by the dealership. The estimated cost of an immobiliser, including fitting, is estimated at approx. £150.

- 8 Forensic marking will enable police officers to easily identify a vehicle using a hand-held scanner or UV torch. Police forces already have this equipment, and many officers are issued with UV torches. The regulations made under this bill could, if the Secretary of State was so minded, specify the requirements which forensic marking must meet, basing the minimum requirements on the existing CESAR scheme requirements as the minimum standard.
- 9 The CESAR Scheme (Construction and Agriculture Equipment Security and Registration scheme) was established in 2008 and uses both visible and covert markings, with marked machinery registered on a database of ownership allowing for recovered machines to be returned more easily. Police may use existing powers to seize and remove a vehicle if its true owner cannot be verified and the Bill specifies that those selling vehicles and equipment subject to the legislation must record specified information about the buyer. The secondary legislation could set out the details of when the information must be recorded, how long it must be kept, and what form the information must be kept in (for example, an online database). The estimated cost for forensically marking a vehicle or piece of machinery and recording this information is estimated at approx. £35.
- 10 The evidence of the impact for forensic marking is less certain, and mainly relates to domestic burglary. The Agricultural Engineers Association (AEA) is an official supporter of the CESAR scheme and they have reported that CESAR marking of agricultural machinery has contributed to a 60% decline in thefts since the scheme was launched.⁵ Forensic marking and immobilisers are already commonplace in the construction sector; 90% of the CEA's membership already voluntarily include these as standard on their machinery.
- 11 Theft of quad bikes and ATVs has a significant impact on those who rely on them for their livelihood. The main users of quad bikes and ATVs are farmers, those involved in horticulture and land management such as estate owners and organisations such as the Forestry Commission, National Parks and the National Trust. For example, an ATV is an essential piece of equipment for a livestock farmer to check and feed livestock, as an alternative or compliment to a dog to move animals around, and more versatile and fuel-efficient than a larger vehicle for these tasks. Recreational use of these types of vehicles is on the increase and although quad bikes and ATVs owned for leisure use are stolen less frequently, owners will benefit from these proposed additional security measures. Thefts have a reputational damage to the manufacturer, and a selling point would be their products are more secure.

⁵ Reported on the AEA website: [CESAR Scheme - Services - Agricultural Engineers Association \(aea.uk.com\)](https://www.aea.uk.com)

Legal background

- 12 There is currently no legal requirement to fit immobilisers or forensic marking to the machinery and equipment specified in this Bill, although some manufacturers choose to take this action on a voluntary basis for some machinery, and customers are able to have immobilisers and forensic marking retrospectively fitted to their vehicles and machinery if they choose to do so.

Territorial extent and application

- 13 The Bill applies to England and Wales. The prevention, detection and investigation of crime is a devolved matter in Scotland and Northern Ireland.
- 14 The United Kingdom Internal Market Act 2020 (UKIM) will apply to the Bill's provisions. The Act seeks to prevent internal trade barriers among the four constituent countries of the UK.
- 15 The principle of 'mutual recognition' under Part 1 of UKIM will apply. This means that goods that comply with regulations permitting their sale in the part of the UK from where they originate, may be sold in other parts of the UK without complying with regulations there. The result for the purposes of this Bill is that ATVs sold under contracts concluded in Scotland or Northern Ireland will not require immobilisers or markings (until the governments of those parts of the UK decide otherwise) even if the purchaser is based and will use the ATV in England or Wales.

Commentary on provisions of Bill

Clause 1: Requirements for sale of equipment

- 16 Clause 1 provides a power for the Secretary of State to make regulations to restrict the sale of equipment where certain requirements have not been met. These requirements are set out at 1(3) and include that the equipment is fitted with an immobiliser, visible marking showing that the equipment complies with these requirements; and forensic marking identifying the buyer of the equipment or a method for identifying the buyer of the equipment. Clause 1(2)(a) defines machinery to allow this provision to cover All-Terrain Vehicles such as quad bikes. The regulations will not include other light vehicles such as golf buggies or mobility scooters. Clause 1(2)(b) allows regulations to specify other equipment designed or adapted primarily for use in agricultural or commercial activities, for example the construction sector.
- 17 Clause 1(4) states the provisions cannot relate to sales of equipment within the supply chain (for example, from a manufacturer to a trader).

Clause 2: Record keeping

- 18 Clause 2 provides a power for the Secretary of State to make regulations to specify information to be recorded in connection with the sale, for example the owner's contact details and details of the forensic marking. These regulations may include when the information must be recorded, how long it must be kept, and what form the information must be kept in (for example, an online database).
- 19 Clause 2(3) includes the same exceptions as clause 1(4) to exclude equipment that has previously been used (second-hand equipment) or sales within the supply chain. It also specifies the regulations may not require the person selling the equipment to verify the accuracy of the information recorded or keep the information updated.

Clause 3: Enforcement

- 20 Clause 3(1) creates an offence. A person commits an offence if they sell equipment in breach of the requirements imposed by the regulations made under clause 1 or clause 2 of this Bill. A person that commits the offence is liable on summary conviction to a fine. Breach of the requirements will be enforced by a local weights and measures authority (Trading Standards) or a district council, under Schedule 5 to the Consumer Rights Act 2015. This Bill amends paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 to include section 3 of this Bill (The Equipment Theft (Prevention) Act 2023).

Clause 4: Regulations: general

- 21 Clause 4(1) provides further detail on what the regulations under this Bill may include. The regulations may make transitional provisions, for example to state that there is no requirement to fit immobilisers or forensically mark and register ATVs that were purchased prior to commencement of the legislation. The regulations may make different provisions for different purposes, for example this will allow for a requirement for certain equipment to be forensically marked and registered on a database while not requiring immobilisers to be fitted if these are not relevant to the equipment or not desirable.
- 22 Regulations made under this Act will be subject to the affirmative procedure, so will be debated in each House of Parliament.

Clause 5: Extent, commencement and short title

- 23 This clause is self-explanatory.

Commencement

- 24 Clause 5 provides for commencement. Clause 5(2) states that the Act will come into force six months after the Act is passed.

Financial implications of the Bill

- 25 There are not expected to be any significant costs to public bodies in implementing this Bill. The financial implication to local authorities for enforcement by Trading Standards officers are expected to be minimal.

Parliamentary approval for financial costs or for charges imposed

- 26 The Bill does not authorise or require any new head of expenditure or any additional expenditure that would need to be authorised by a money resolution, or create a charge upon the people that would need to be authorised by a ways and means resolution.

Compatibility with the European Convention on Human Rights

- 27 The Government considers that the provisions of the Equipment Theft (Prevention) Bill are compatible with the European Convention on Human Rights.

Annex A – Territorial extent and application in the United Kingdom

28 The Bill extends to England and Wales only.

Provision	Extends to E & W and applies to England ?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of Senedd Cymru	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	Yes	No	No	N/A	N/A	N/A	No
Clause 2	Yes	Yes	No	No	N/A	N/A	N/A	No
Clause 3	Yes	Yes	No	No	N/A	N/A	N/A	No
Clause 4	Yes	Yes	No	No	N/A	N/A	N/A	No
Clause 5	Yes	Yes	No	No	N/A	N/A	N/A	No

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