



Queensland

# **Police Powers and Responsibilities and Other Legislation Amendment Act 2006**

**Act No. 57 of 2006**





## Queensland

# Police Powers and Responsibilities and Other Legislation Amendment Act 2006

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Queensland

# **Police Powers and Responsibilities and Other Legislation Amendment Act 2006**

## **Act No. 57 of 2006**

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**An Act to amend the *Police Powers and Responsibilities Act 2000*, and for other purposes**

**[Assented to 7 December 2006]**

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2006*.

### **2 Commencement**

- (1) Parts 2 and 5 commence on 1 July 2007.
- (2) Part 6 commences immediately after the commencement of the *Maritime and Other Legislation Amendment Act 2006*, section 141.

## **Part 2 Amendment of Police Powers and Responsibilities Act 2000**

### **3 Act amended in pt 2**

This part amends the *Police Powers and Responsibilities Act 2000*.

### **4 Amendment of s 69 (Definitions for ch 4)**

- (1) Section 69, definitions *forfeiture order*, *impounding order*, *relevant period* and *vehicle related offence*—  
*omit.*
- (2) Section 69—  
*insert—*  
*‘forfeiture order—*



- (a) for a type 1 vehicle related offence—see section 90(2);  
or
- (b) for a type 2 vehicle related offence—see section 90A(2);  
or
- (c) for a motorbike noise order offence—see section 91(2).

***impounding order***—

- (a) for a type 1 vehicle related offence—see section 85(2);  
or
- (b) for a type 2 vehicle related offence—see section 85A(2);  
or
- (c) for a motorbike noise order offence—see section 86(2).

***relevant period***—

- (a) in relation to a motor vehicle impounded for a type 1 vehicle related offence—means the period of not more than 3 years before the initiating impoundment for the motor vehicle; or
- (b) in relation to a motor vehicle impounded for a type 2 vehicle related offence committed after the commencement of the *Police Powers and Responsibilities and Other Legislation Amendment Act 2006*, section 5—means the period, after the commencement, of not more than 3 years before the initiating impoundment for the motor vehicle.

***type 1 vehicle related offence*** see section 69A.

***type 2 vehicle related offence*** see section 69A.

***vehicle related offence*** means—

- (a) a type 1 vehicle related offence; or
  - (b) a type 2 vehicle related offence.’.
- (3) Section 69, definition *initial impoundment period*, paragraph (b), after ‘next occurring’—

*insert*—

‘on a business day’.

- (4) Section 69, definition *prescribed impoundment information*, paragraph (c), from ‘and the driver’ to ‘was impounded’—  
*omit.*

## 5 Insertion of new s 69A

After section 69—

*insert—*

### ‘69A Meaning of type 1 and type 2 vehicle related offences

- ‘(1) A *type 1 vehicle related offence* means any of the following offences committed in circumstances that involve a speed trial, a race between motor vehicles, or a burn out—
- (a) an offence against the Criminal Code, section 328A committed on a road or in a public place;
  - (b) an offence against the Road Use Management Act, section 83;
  - (c) an offence against the Road Use Management Act, section 85;
  - (d) an offence against the Road Use Management Act involving wilfully starting a motor vehicle, or driving a motor vehicle, in a way that makes unnecessary noise or smoke.

*Notes—*

Under the *Acts Interpretation Act 1954*, section 7(1) a reference to a law includes a reference to statutory instruments made or in force under the law.

At the enactment of this definition, a relevant offence for paragraph (d), for example, is an offence against the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 291(1)(b).

- ‘(2) A *type 2 vehicle related offence* means any of the following offences—
- (a) an offence against the *Motor Accident Insurance Act 1994*, section 20 that happens at the same time as an offence against the Road Use Management Act involving the use on a road of a vehicle that is not registered as required under that Act;

- (b) an offence against the Road Use Management Act, section 78(1);
  - (c) an offence against the Road Use Management Act, section 79 in circumstances in which the driver of the motor vehicle involved in the offence is over the high alcohol limit within the meaning of the Road Use Management Act, section 79A;
  - (d) an offence against the Road Use Management Act, section 80(5A), (11) or (22D);
  - (e) an offence against the Road Use Management Act prescribed under a regulation for this paragraph involving a motor vehicle being driven on a road if—
    - (i) a defect notice has been issued under this Act or the Road Use Management Act in relation to the motor vehicle; and
    - (ii) under the notice, the motor vehicle must be inspected by an authorised officer under that Act to ensure it complies with that Act.
- ‘(3) For subsection (2)(e), a regulation may only prescribe an offence that involves—
- (a) the motor vehicle (including its equipment) being modified in a way that required the owner to ensure that the modification had been approved under the Road Use Management Act; or
  - (b) the motor vehicle (including its equipment) being modified so that driving the motor vehicle on the road is an offence under the Road Use Management Act.’.

## **6 Insertion of new section 70A**

After section 70—

*insert—*

### **‘70A References to type 2 vehicle related offences including the same kind**

- ‘(1) This section applies when a provision of this chapter refers to a type 2 vehicle related offence in relation to another type 2

vehicle related offence or to more than 1 type 2 vehicle related offence, whether any reference relates to a finding of guilt or a charge or a commission of the offence (a **plural reference**).

- ‘(2) Each plural reference to type 2 vehicle related offences is a reference to type 2 vehicle related offences each of which is the same kind of type 2 vehicle related offence and is not a reference to a combination of different kinds of type 2 vehicle related offences.
- ‘(3) For this chapter, a type 2 vehicle related offence is the same kind as another type 2 vehicle related offence if both offences are within the description of an offence covered by a paragraph of the definition of *type 2 vehicle related offence* in section 69A(2).’.

## **7 Insertion of new ch 4, pt 1, div 3**

Chapter 4, part 1—

*insert—*

### **‘Division 3 Application of chapter 4 to type 2 vehicle related offences**

#### **‘73A Application of ch 4 to type 2 vehicle related offences**

- ‘(1) To the extent this chapter applies to type 2 vehicle related offences, this chapter applies only in relation to type 2 vehicle related offences committed in an area to which this chapter has been applied under subsection (2) or subsection (3) (the **application area**).
- ‘(2) For subsection (1), this chapter applies to the North Coast Police Region and the Southern Police Region.

*Note—*

The North Coast Police Region comprises the Bundaberg, Maryborough, Gympie, Sunshine Coast and Redcliffe Police Districts. The Southern Police Region comprises the Charleville, Dalby, Ipswich, Toowoomba and Warwick Police Districts. Indicative maps of the regions may be located on the police service website [http://www.police.qld.gov.au/Resources/Internet/services/reportsPublications/documents/07\\_OrganisationalStructure.pdf](http://www.police.qld.gov.au/Resources/Internet/services/reportsPublications/documents/07_OrganisationalStructure.pdf)

- ‘(3) A regulation may extend the application of this chapter for subsection (1) to another police region or the whole State.
- ‘(4) Also, a regulation may declare the boundaries of police regions, to which this chapter applies, for subsection (1).
- ‘(5) A reference in this chapter to a type 2 vehicle related offence is a reference to a type 2 vehicle related offence committed when the place where the offence was committed was included in the application area.’.

## **8 Amendment of s 74 (Impounding motor vehicles)**

- (1) Section 74(1), ‘a vehicle related’—  
*omit, insert—*  
‘a type 1 vehicle related’.
- (2) Section 74(3), ‘or (2)’—  
*omit, insert—*  
‘, (2) or (3)’.
- (3) Section 74(2) and (3), as amended—  
*renumber* as section 74(3) and (4).
- (4) Section 74—  
*insert—*
- ‘(2) Also, a police officer may impound a motor vehicle if the driver of the motor vehicle—
  - (a) is charged with having committed a type 2 vehicle related offence in relation to the motor vehicle; and
  - (b) has, within the relevant period, been charged with, or found guilty of, another type 2 vehicle related offence.’.

## **9 Amendment of s 75 (Particular powers for impounding motor vehicles)**

- Section 75(2), ‘motorbike’—  
*omit, insert—*  
‘motor vehicle’.

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**10 Amendment of s 78 (Impounding notice for vehicle related offence)**

(1) Section 78(4)—

*omit, insert—*

‘(4) The impounding notice must include—

(a) if the motor vehicle is impounded for a type 1 vehicle related offence—the information required under section 80 or 81; or

(b) if the motor vehicle is impounded for a type 2 vehicle related offence—the information required under section 81A or 81B.’.

(2) Section 78(7)—

*omit, insert—*

‘(7) An impounding notice given to a driver under subsection (2)(a) must be given personally to the driver.

‘(8) Also, if the name of the owner of the motor vehicle is not known, an impounding notice required to be given to the owner under subsection (2)(b) may be given by making the information required to be included on the impounding notice, other than the owner’s name and address, available on the police service internet website.’.

**11 Amendment of s 79 (Impounding notice for motorbike noise direction offence or motorbike noise order offence)**

Section 79(8)—

*omit, insert—*

‘(8) An impounding notice given to a driver under subsection (2)(a) must be given personally to the driver.

‘(9) Also, if the name of the owner of the motorbike is not known, an impounding notice required to be given to the owner under subsection (2)(b) may be given by making the information required to be included on the impounding notice, other than the owner’s name and address, available on the police service internet website.’.

**12 Amendment of ch 4, pt 2, div 2 hdg (Notice requirements for motor vehicles impounded for vehicle related offences)**

Chapter 4, part 2, division 2, heading, after ‘impounded for’—  
*insert*—  
‘type 1’.

**13 Amendment of s 80 (Content of notice for first vehicle related offence)**

- (1) Section 80, heading, after ‘first’—  
*insert*—  
‘type 1’.
- (2) Section 80(1), ‘vehicle related’—  
*omit, insert*—  
‘type 1 vehicle related’.

**14 Amendment of s 81 (Content of notice for second or subsequent vehicle related offence)**

- (1) Section 81, heading, after ‘subsequent’—  
*insert*—  
‘type 1’.
- (2) Section 81(1), ‘vehicle related’—  
*omit, insert*—  
‘type 1 vehicle related’.
- (3) Section 81(2)(b), ‘vehicle related’—  
*omit, insert*—  
‘type 1 vehicle related’.
- (4) Section 81(2)(c), ‘vehicle related’—  
*omit, insert*—  
‘type 1 vehicle related’.

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**15 Insertion of new ch 4, pt 2, div 2A**

Chapter 4, part 2—

*insert—*

**‘Division 2A Notice requirements for motor vehicles impounded for type 2 vehicle related offences****‘81A Content of notice for motor vehicle impounded for second type 2 vehicle related offence**

- ‘(1) This section applies if a motor vehicle has been impounded because of a type 2 vehicle related offence and section 81B does not apply to the driver of the motor vehicle.
- ‘(2) The impounding notice must state—
- (a) that the motor vehicle is impounded for the initial impoundment period; and
  - (b) the prescribed impoundment information.

**‘81B Content of notice for third or subsequent type 2 vehicle related offence**

- ‘(1) This section applies if a motor vehicle has been impounded because of a type 2 vehicle related offence and a police officer reasonably suspects that, in addition to the initiating impoundment offence, and within the relevant period—
- (a) the driver of the motor vehicle has previously been charged with having committed type 2 vehicle related offences on at least 2 previous occasions within the relevant period and the charges have not been decided; or
  - (b) the driver of the motor vehicle has previously been found guilty of type 2 vehicle related offences committed on at least 2 previous occasions within the relevant period; or
  - (c) the driver of the motor vehicle has previously been found guilty of having committed a type 2 vehicle



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related offence on at least 1 previous occasion within the relevant period and has previously been charged with having committed a type 2 vehicle related offence on at least 1 previous occasion within the relevant period and the charge has not been decided.

- (2) The impounding notice must state—
- (a) that the motor vehicle is impounded for the initial impoundment period; and
  - (b) that an application will be made to a court or a magistrate for an order that the motor vehicle be impounded for up to 3 months, if any of the following apply to the driver at the time of the initiating impoundment—
    - (i) the driver has previously been charged with having committed type 2 vehicle related offences on 2 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment;
    - (ii) the driver has previously been found guilty of type 2 vehicle related offences committed on 2 previous occasions within the relevant period;
    - (iii) the driver has previously been found guilty of having committed a type 2 vehicle related offence on 1 previous occasion within the relevant period and has previously been charged with having committed a type 2 vehicle related offence on 1 previous occasion within the relevant period and the charge has not been decided; and
  - (c) that an application will be made to a court or a magistrate for an order that the motor vehicle be forfeited to the State, if any of the following apply to the driver at the time of the initiating impoundment—
    - (i) the driver has previously been charged with having committed type 2 vehicle related offences on at least 3 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment;

- 
- (ii) the driver has previously been found guilty of having committed type 2 vehicle related offences on at least 3 previous occasions within the relevant period;
  - (iii) the driver has previously been found guilty of having committed a type 2 vehicle related offence on at least 1 previous occasion within the relevant period and has previously been charged with having committed a type 2 vehicle related offence on at least 2 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment;
  - (iv) the driver has previously been found guilty of having committed a type 2 vehicle related offence on at least 2 previous occasions within the relevant period and has previously been charged with having committed a type 2 vehicle related offence on at least 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment; and
- (d) the prescribed impoundment information.’.

**16 Amendment of s 85 (Application for impounding order for vehicle related offence)**

- (1) Section 85, heading, after ‘order for’—  
*insert—*  
**‘type 1’.**
- (2) Section 85(1), other than the note, ‘vehicle related’—  
*omit, insert—*  
‘type 1 vehicle related’.
- (3) Section 85(3), ‘vehicle related’—  
*omit, insert—*  
‘type 1 vehicle related’.

---

**17 Insertion of new s 85A**

After section 85—

*insert—*

**‘85A Application for impounding order for type 2 vehicle related offence**

- ‘(1) This section applies if a motor vehicle has been impounded for a type 2 vehicle related offence and, in addition to the initiating impoundment offence—
- (a) the driver of the motor vehicle has previously been charged with having committed type 2 vehicle related offences on 2 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment; or
  - (b) the driver of the motor vehicle has previously been found guilty of type 2 vehicle related offences committed on 2 previous occasions within the relevant period; or
  - (c) the driver of the motor vehicle has previously been found guilty of having committed a type 2 vehicle related offence on 1 previous occasion within the relevant period and has previously been charged with having committed a type 2 vehicle related offence on 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment.

*Notes—*

Because of section 70A, applications may only be made for type 2 vehicle related offences of the same kind, not a combination of different kinds of type 2 vehicle related offences.

For vehicle related offences, the offences do not have to be committed using the same vehicle.

- ‘(2) Within 48 hours after charging the person with the initiating impoundment offence, a police officer must apply in the approved form for an order that the motor vehicle be held at a holding yard for a period of not more than 3 months (*impounding order*).

- 
- ‘(3) The application must be made in relation to 3 type 2 vehicle related offences consisting of—
- (a) any 2 type 2 vehicle related offences the circumstances of which apply to the driver under subsection (1)(a), (b) or (c); and
  - (b) the initiating impoundment offence.
- ‘(4) The application must be made to the relevant court but may be started by application to a magistrate under section 800 and subsection (6) of this section.
- ‘(5) Subsection (4) applies even though the value of the motor vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of a Magistrates Court.
- ‘(6) If the application is properly made to a magistrate under section 800, the magistrate must—
- (a) order that a police officer may have the application brought on for hearing and decision in the relevant court and adjourn the application to that court; and
  - (b) give a copy of the application and the order to the clerk of the court of the relevant court.’.

**18 Amendment of s 87 (Orders on application for impounding order if vehicle related offence not decided)**

Section 87, ‘vehicle related’—

*omit, insert—*

‘type 1 vehicle related’.

**19 Insertion of new s 87A**

After section 87—

*insert—*

**‘87A Orders on application for impounding order if type 2 vehicle related offence not decided**

- ‘(1) This section applies if—

- (a) an application is made to a relevant court for an impounding order under section 85A for a motor vehicle impounded for a type 2 vehicle related offence; and
  - (b) any proceeding on a charge of a type 2 vehicle related offence or offences in relation to which the application is made has not been decided.
- ‘(2) If the driver of the motor vehicle has not been found guilty of type 2 vehicle related offences in relation to offences committed on 3 occasions within the prescribed period, the court must adjourn the application until the driver of the motor vehicle is found guilty of charges in relation to offences committed on 3 occasions within the prescribed period.
- ‘(3) However, if the application relates to at least 2 type 2 vehicle related offences of which the driver has been found guilty, the court may, if satisfied on application that the motor vehicle should be impounded to stop the commission of another type 2 vehicle related offence, order that the motor vehicle be impounded for a further period of not more than 3 months.’.

**20 Amendment of s 90 (Application for forfeiture order for vehicle related offence)**

- (1) Section 90, heading, after ‘order for’—  
*insert—*  
**‘type 1’.**
- (2) Section 90(1), ‘vehicle related’—  
*omit, insert—*  
**‘type 1 vehicle related’.**
- (3) Section 90(3), ‘vehicle related’—  
*omit, insert—*  
**‘type 1 vehicle related’.**

**21 Insertion of new section 90A**

After section 90—

*insert—*

**‘90A Application for forfeiture order for type 2 vehicle related offence**

- ‘(1) This section applies in relation to a motor vehicle impounded under section 74 for a type 2 vehicle related offence if, at the time of the initiating impoundment, in addition to the initiating impoundment offence, the driver of the motor vehicle has previously been charged with having committed type 2 vehicle related offences on at least 3 previous occasions within the relevant period and any of the following circumstances apply to the driver—
- (a) the charges of the type 2 vehicle related offences have not been decided before the initiating impoundment;
  - (b) the driver has been found guilty of at least 1 of the type 2 vehicle related offences but the other charge or charges have not been decided before the initiating impoundment;
  - (c) the driver has previously been found guilty of having committed the type 2 vehicle related offences on at least 3 previous occasions.

*Notes—*

For type 2 vehicle related offences, the offences do not have to be committed using the same vehicle.

Also, because of section 70A, applications may only be made for type 2 vehicle related offences of the same kind, not a combination of different kinds of type 2 vehicle related offences.

- ‘(2) Within 48 hours after charging the person with the initiating impoundment offence, a police officer must apply in the approved form for an order that the motor vehicle be forfeited to the State (*forfeiture order*).
- ‘(3) The application must be made in relation to at least 4 type 2 vehicle related offences consisting of—
- (a) the type 2 vehicle related offences the circumstances of which apply to the driver under subsection (1)(a), (b) or (c); and
  - (b) the initiating impoundment offence.

- ‘(4) The application must be made to the relevant court but may be started by application to a magistrate under section 800 and subsection (6) of this section.
- ‘(5) Subsection (4) applies even though the value of the motor vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of a Magistrates Court.
- ‘(6) If the application is properly made to a magistrate under section 800, the magistrate must—
  - (a) order that a police officer may have the application brought on for hearing and decision in the relevant court and adjourn the application to that court; and
  - (b) give a copy of the application and the order to the clerk of the court of the relevant court.’.

**22 Amendment of s 92 (Orders on application for forfeiture order if vehicle related offence not decided)**

Section 92, ‘vehicle related’—

*omit, insert—*

‘type 1 vehicle related’.

**23 Insertion of new s 92A**

After section 92—

*insert—*

**‘92A Orders on application for forfeiture order if type 2 vehicle related offence not decided**

- ‘(1) This section applies if—
  - (a) an application is made to a relevant court under section 90A for a forfeiture order in relation to a motor vehicle impounded for a type 2 vehicle related offence; and
  - (b) any proceeding on a charge of a type 2 vehicle related offence or offences in relation to which the application is made has not been decided.

- ‘(2) If the driver of the motor vehicle has not been found guilty of type 2 vehicle related offences in relation to offences committed on 4 occasions within the prescribed period, the court must adjourn the application until the driver is found guilty of charges in relation to type 2 vehicle related offences committed on at least 4 occasions within the prescribed period.
- ‘(3) However, if the application relates to at least 1 type 2 vehicle related offence of which the driver has been found guilty, the court may, if satisfied on application that the motor vehicle should be impounded to stop the commission of another type 2 vehicle related offence, order that the motor vehicle be impounded for a further period of not more than 3 months.’.

**24 Amendment of s 96 (When application to be heard—vehicle related offence)**

- (1) Section 96, ‘vehicle related’—  
*omit, insert—*  
‘type 1 vehicle related’.
- (2) Section 96(4), ‘divisions 2 and 3’—  
*omit, insert—*  
‘division 2’.

**25 Insertion of new s 96A**

After section 96—  
*insert—*

**‘96A When application to be heard—type 2 vehicle related offence**

- ‘(1) An application for an impounding order in relation to a type 2 vehicle related offence must be heard and decided as soon as practicable after the person to whom the application relates is found guilty of 3 type 2 vehicle related offences committed on 3 occasions within the prescribed period.
- ‘(2) An application for a forfeiture order in relation to a vehicle related offence must be heard and decided as soon as



practicable after the person to whom the application relates is found guilty of 4 type 2 vehicle related offences committed on 4 occasions within the prescribed period.

- ‘(3) However, if, after an application for a forfeiture order in relation to a type 2 vehicle related offence is made—
- (a) the person to whom the application relates is found not guilty of 1 of the type 2 vehicle related offences or the proceeding for 1 of the offences is discontinued; and
  - (b) no motor vehicle has previously been impounded for a type 2 vehicle related offence committed within the relevant period on an application for an impounding order made in relation to that person for an offence to which the application for the forfeiture order relates;

the relevant court may hear and decide the application for the forfeiture order as if it were an application for an impounding order.

- ‘(4) An application to which subsection (3) applies is taken, for division 2A, to be an application for an impounding order.’.

**26 Amendment of s 97 (When application to be heard—motorbike noise order offence)**

Section 97(4), ‘divisions 2 and 3’—

*omit, insert—*

‘division 3’.

**27 Amendment of ch 4, pt 5, div 2 hdg (Consideration of application if made for vehicle related offence)**

Chapter 4, part 5, division 2, heading, after ‘made for’—

*insert—*

‘type 1’.

**28 Amendment of s 98 (Consideration of application for impounding order)**

- (1) Section 98, heading, after ‘order’—

*insert—*

**‘—type 1 vehicle related offence’.**

(2) Section 98(1), ‘vehicle related’—

*omit, insert—*

‘type 1 vehicle related’.

(3) Section 98(3)—

*omit, insert—*

‘(3) Despite subsection (1), the relevant court may—

(a) make an order under section 102 for the performance by the driver of the motor vehicle of community service as decided by the court; and

(b) order that the motor vehicle be released to the owner.’.

## **29 Amendment of s 99 (Consideration of application for forfeiture order)**

(1) Section 99, heading, after ‘order’—

*insert—*

**‘—type 1 vehicle related offence’.**

(2) Section 99, ‘vehicle related’—

*omit, insert—*

‘type 1 vehicle related’.

(3) Section 99(4)—

*omit, insert—*

‘(4) Despite subsection (1), the relevant court may—

(a) make an order under section 102 for the performance by the driver of the motor vehicle of community service as decided by the court; and

(b) order that the motor vehicle be released to the owner.’.

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**30 Insertion of new ch 4, pt 5, div 2A**

Chapter 4, part 5—

*insert—*

**‘Division 2A Consideration of application if  
made for type 2 vehicle related  
offence****‘99A Consideration of application for impounding  
order—type 2 vehicle related offence**

- ‘(1) On the hearing of the application for an impounding order for a type 2 vehicle related offence, the relevant court may, if the driver of the motor vehicle has been found guilty of a type 2 vehicle related offence committed on 3 occasions within the prescribed period, order that the motor vehicle be impounded for a stated period of not more than 3 months.

*Notes—*

Because of section 70A, applications may only be made for type 2 vehicle related offences of the same kind, not a combination of different kinds of type 2 vehicle related offences.

Also, section 110 makes provision for enforcing the order.

- ‘(2) Also, if the driver of the motor vehicle was a child when the last offence was committed, the relevant court must consider whether to make a costs order under section 103.
- ‘(3) Despite subsection (1), the relevant court may—
- (a) make an order under section 102 for the performance by the driver of the motor vehicle of community service as decided by the court; and
  - (b) order that the motor vehicle be released to the owner.
- ‘(4) Also, if an owner of the motor vehicle raises the defence mentioned in section 107 and the relevant court is satisfied the defence has been made out, the court may order that the motor vehicle be released to the owner.

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**‘99B Consideration of application for forfeiture order—type 2 vehicle related offence**

- ‘(1) On the hearing of an application for a forfeiture order for a type 2 vehicle related offence, the relevant court may order that the motor vehicle be forfeited to the State or impounded for the period, of not more than 3 months, fixed by the court if the driver of the motor vehicle has been found guilty of a type 2 vehicle related offence committed on 4 occasions within the prescribed period.

*Note—*

Section 110 makes provision for enforcing the order.

- ‘(2) If—
- (a) under subsection (1), the relevant court orders the impounding of the motor vehicle to which the application relates; and
  - (b) a relevant court has previously made an impounding order under section 99A for a type 2 vehicle related offence committed within the relevant period and forming the basis of the application;
- the motor vehicle is impounded under subsection (1) for the type 2 vehicle related offence giving rise to the application for the forfeiture order and not for a type 2 vehicle related offence to which the impounding order under section 99A relates.
- ‘(3) Also, if the driver of the motor vehicle was a child when the last offence was committed, the relevant court must consider whether to make a costs order under section 103.
- ‘(4) Despite subsection (1), the relevant court may—
- (a) make an order under section 102 for the performance by the driver of the motor vehicle of community service as decided by the court; and
  - (b) order that the motor vehicle be released to the owner.
- ‘(5) Also, if an owner of the motor vehicle raises the defence mentioned in section 107 and the relevant court is satisfied the defence has been made out, the court may order that the motor vehicle be released to the owner.

- 
- ‘(6) On the making of a forfeiture order for a motor vehicle—
- (a) the vehicle becomes the property of the State; and
  - (b) any right of a person to enforce a charge or other security interest registered under the *Motor Vehicles and Boats Securities Act 1986* against a person other than the State by taking possession of the vehicle is extinguished.’.

**31 Amendment of s 100 (Consideration of application for impounding order)**

Section 100(3)—

*omit, insert—*

- ‘(3) Despite subsection (1), the relevant court may—
- (a) make an order under section 102 for the performance by the driver of the motorbike of community service as decided by the court; and
  - (b) order that the motorbike be released to the owner.’.

**32 Amendment of s 101 (Consideration of application for forfeiture order)**

Section 101(4)—

*omit, insert—*

- ‘(4) Despite subsection (1), the relevant court may—
- (a) make an order under section 102 for the performance by the driver of the motorbike of community service as decided by the court; and
  - (b) order that the motorbike be released to the owner.’.

**33 Amendment of s 108 (Counting the occasions)**

- (1) Section 108, heading, after ‘occasions’—

*insert—*

‘—general’.

- (2) Section 108(1), from ‘81,’ to ‘99’—

*omit, insert—*

‘81 to 81B, 84, 85, 85A, 87, 87A, 90, 90A, 92, 92A, 93, 96 to 99B’.

- (3) Section 108(1)—

*insert—*

‘*Note—*

Because of section 70A, applications may only be made for type 1 vehicle related offences of any kind or type 2 vehicle related offences of the same kind, not a combination of type 1 and type 2 vehicle related offences or a combination of different kinds of type 2 vehicle related offences.’.

- (4) Before section 108(3), as a heading—

*insert—*

**‘108A References to previous occasions in ss 81, 81B, 84, 85, 85A, 90, 90A and 91’.**

- (5) Section 108(3), ‘84, 85, 90’—

*omit, insert—*

‘81B, 84, 85, 85A, 90, 90A’.

- (6) Section 108(3)—

*insert—*

‘*Note—*

Because of section 70A, applications may only be made for type 2 vehicle related offences of the same kind, not a combination of different kinds of type 2 vehicle related offences.’.

- (7) Section 108(3), as amended—

*renumber* as section 108A.

- (8) Before section 108(4), as a heading—

*insert—*

**‘108B Matters for decisions under ss 85, 85A, 87, 87A, 90-93 and 96-99B and 101’.**

- (9) Section 108(4), from ‘subsections (1) to (3)’ to ‘99’—

*omit, insert—*

‘sections 108 and 108A, for a decision under sections 85, 85A, 87, 87A, 90 to 93, 96 to 99B’.

(10) Section 108(4)—

*insert—*

‘*Note—*

Because of section 70A, applications may only be made for type 1 vehicle related offences of any kind or type 2 vehicle related offences of the same kind, not a combination of type 1 and type 2 vehicle related offences or a combination of different kinds of type 2 vehicle related offences.’.

(11) Section 108(4), as amended and section 108(5)—

*renumber* as section 108B(1) and (2).

**34 Amendment of s 111 (State’s liability to pay costs of impounding)**

(1) Section 111(1), ‘the State is liable’—

*omit, insert—*

‘the State is not liable’.

(2) Section 111(2)—

*omit, insert—*

‘(2) However, the State is liable to pay the costs of removing an impounded vehicle and keeping it if—

(a) the driver of the motor vehicle—

(i) was a child when he or she committed the offence for which it was impounded; or

(ii) is found not guilty of the offence for which the motor vehicle was impounded; or

(b) the proceeding for the offence for which the motor vehicle was impounded is withdrawn.’.

**35 Amendment of s 112 (Liability to pay costs of impounding—adult driver)**

Section 112(3)—

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*omit, insert—*

- ‘(3) If the driver is found guilty of the prescribed offence or motorbike noise direction offence, any costs paid by someone else on the driver’s behalf become a debt payable to the other person by the driver.’.

**36 Amendment of s 113 (Liability to pay costs of impounding—child driver)**

- (1) Section 113(3), ‘111(1)’—

*omit, insert—*

‘111(2)’.

- (2) Section 113(4), ‘111(1)’—

*omit, insert—*

‘111(2)’.

**37 Amendment of s 114 (Payment of costs if motor vehicle not recovered)**

- (1) Section 114(3)(a), ‘personally’—

*omit.*

- (2) Section 114(4), ‘personally’—

*omit.*

**38 Amendment of s 115 (Registration of costs under State Penalties Enforcement Act 1999)**

Section 115(1), ‘under this division’—

*omit, insert—*

‘under section 113(4)’.

**39 Amendment of s 116 (Release of motor vehicle impounded under s 74)**

- (1) Section 116(3) and (4)—



*renumber* as section 116(4) and (5).

(2) Section 116(2)—

*omit, insert—*

‘(2) If the owner of the motor vehicle is liable to pay the costs of removing the motor vehicle to, and keeping it at, the holding yard at which it is kept, including under an impounding order, the owner is entitled, when the impoundment period for which the motor vehicle is impounded ends, and on payment of the costs, to recover the motor vehicle from the holding yard.

‘(3) If, under section 111(2), the State is liable to pay the costs of removing the motor vehicle to, and keeping it at, the holding yard at which it is kept, the owner is entitled, when the impoundment period for which the motor vehicle is impounded ends, to recover the motor vehicle from the holding yard, whether or not the State has paid the costs.’.

(3) Section 116(4), as renumbered, after ‘request is made’—

*insert—*

‘and on payment of any costs for which the owner is liable as mentioned in subsection (2)’.

#### **40 Replacement of s 118 (Sale of motor vehicle if not recovered after impounding ends)**

Section 118—

*omit, insert—*

#### **‘118 Sale of motor vehicle if not recovered after impounding ends**

‘(1) This section applies if, within 30 days after a period of impounding ends—

(a) the owner of the motor vehicle does not recover the motor vehicle; or

(b) after making reasonable inquiries, a police officer can not find out who owns the motor vehicle.

- ‘(2) The commissioner may sell the motor vehicle and anything in or on it by public auction or dispose of it in the way the commissioner considers appropriate.
- ‘(3) For subsection (2), the motor vehicle is taken to have been forfeited to the State.
- ‘(4) Notice of the proposed sale or disposal must be given by advertisement in a newspaper circulating in the locality where the vehicle was impounded but may, if the owner is not known, be given by using the police service internet website.
- ‘(5) Also, the commissioner must give written notice of the proposed sale or disposal of the motor vehicle to the owner, if the owner is known.
- ‘(6) However, if the name of the owner of the motor vehicle is not known or the owner can not be located, the notice mentioned in subsection (5) may be given by making the information about the proposed sale of the motor vehicle, but not the owner’s name and address, available on the police service internet website.
- ‘(7) If notice as required under subsection (5) is given as mentioned in subsection (6), the owner is taken, for this section, to have been given notice of the proposed sale of the motor vehicle.’.

**41 Amendment of s 800 (Obtaining warrants, orders and authorities, etc., by telephone or similar facility)**

Section 800(1), ‘86(6), 90(6)’—

*omit, insert—*

‘85A(6), 86(6), 90(6), 90A(6)’.

**42 Insertion of new ch 24, pt 9**

Chapter 24—

*insert—*

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**‘Part 9**                      **Transitional provisions for  
Police Powers and  
Responsibilities and Other  
Legislation Amendment Act  
2006**

**‘862**    **Costs of impoundment**

‘Sections 111 to 116, as in force immediately before 1 July 2007, continue to apply in relation to a motor vehicle impounded before 1 July 2007 but not released to its owner before that date as if those sections had not been amended by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2006*.

**‘863**    **Existing references**

- ‘(1) This section applies to a notice, order or other document issued or made under a provision of chapter 4, as in force immediately before the commencement of this section if—
- (a) the provision is amended by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2006*; and
  - (b) the purpose for issuing the document or making the order has not ended or the proceeding to which it relates has not ended before that commencement.
- ‘(2) A reference in the notice, order or document to a vehicle related office is taken to be a reference to a type 1 vehicle related offence.

**‘864**    **Amendment of regulation by Police Powers and  
Responsibilities and Other Legislation Amendment  
Act 2006 does not affect powers of Governor in  
Council**

‘The amendment of the *Police Powers and Responsibilities Regulation 2000* by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2006* does not affect

the power of the Governor in Council to further amend the regulation or to repeal it.’.

#### **43 Amendment of sch 6 (Dictionary)**

Schedule 6—

*insert—*

‘*costs* of removing and keeping a motor vehicle impounded under this Act, means the amounts prescribed under a regulation under the *Tow Truck Act 1973*, section 43(2)(r) for this Act.

*type 1 vehicle related offence* see section 69A.

*type 2 vehicle related offence* see section 69A.’.

## **Part 3 Amendment of Police Powers and Responsibilities Regulation 2000**

#### **44 Regulation amended in pt 3**

This part amends the *Police Powers and Responsibilities Regulation 2000*.

#### **45 Insertion of new s 10B**

After section 10A—

*insert—*

#### **‘10B Declared sections for Act, s 69A, definition *type 2 vehicle related offence*, paragraph (e)**

‘Each of the following provisions of the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999* is an offence prescribed for the Act, section 69A, definition *type 2 vehicle related offence*, paragraph (e)—

(a) section 5(1)(a), (b), (f) and (g);



(3) Section 143, inserted section 79B(5)—

*omit, insert—*

‘(5) The suspension or disqualification under subsection (2), (3) or (4) starts when the person is charged and ends—

(a) for a suspension of a Queensland driver licence in relation to which a court may make an order under section 79E, when the first of the following happens—

(i) a replacement licence is issued to the person under section 79F;

(ii) the charge is dealt with by a court or is withdrawn or otherwise discontinued; or

(b) in any other case, when the charge is dealt with by a court or is withdrawn or otherwise discontinued.

*Note—*

Section 127 provides for consequences for disqualifications, suspensions, etc. In particular, see section 127(4) and (5).’

(4) Section 143, inserted section 79B(7)—

*insert—*

*‘replacement licence* see section 79F(2).

*section 79E order* see section 79F(1).’.

#### **48 Amendment of s 144A (Insertion of new ss 90A–90D in Act No. 9 of 1995)**

(1) Section 144A, inserted section 90A, definition *drink driving offence*, paragraph (a)(vi), from ‘150AB’ to ‘that regulation’—

*omit, insert—*

‘79E(4) for failing to comply with an order under section 79E(2).’

(2) Section 144A, inserted section 90A, definition *relevant disqualifying provision*, paragraph (e), from ‘150AB’ to ‘the regulation’—

*omit, insert—*

---

‘79E(4) providing for the disqualification of a person for failing to comply with an order under section 79E(2)’.

**49 Omission of s 145 (Insertion of new s 150AB in Act No. 9 of 1995)**

Section 145—

*omit.*

## **Part 5 Amendment of Tow Truck Act 1973**

**50 Act amended in pt 5**

This part amends the *Tow Truck Act 1973*.

**51 Amendment of s 38 (Exemptions)**

Section 38(2), from ‘or 5’—

*omit, insert—*

‘, 5 or 22 applies to the person.’.

**52 Amendment of s 43 (Regulation making power)**

(1) Section 43, heading, ‘Regulation making’—

*omit, insert—*

**‘Regulation-making’.**

(2) Section 43(2)(r), from ‘chapter’—

*omit, insert—*

‘chapter 4 or 22;’.

## **Part 6**                                 **Amendment of Transport Operations (Road Use Management) Act 1995**

### **53     Act amended in pt 6**

This part amends the *Transport Operations (Road Use Management Act) 1995*.

### **54     Amendment of s 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath)**

Section 79(2J), after ‘licence,’—

*insert—*

‘or to whom a replacement licence is issued under section 79F.’.

### **55     Insertion of new ss 79E and 79F**

After section 79D—

*insert—*

### **‘79E     Court may allow particular person whose licence is suspended under s 79B to drive**

‘(1) This section applies to a person—

- (a) whose Queensland driver licence is suspended under section 79B(2) because the person has been charged as mentioned in section 79B(1)(a), (b) or (d); and
- (b) who is eligible, and who applies, under a regulation as mentioned in subsection (4).

‘(2) On application to a court by the person, the court may, by order, authorise the person to continue to drive motor vehicles under the licence, including a renewal of the licence, in stated circumstances.



- ‘(3) Despite the order, the person is not authorised to drive a motor vehicle under a Queensland driver licence until the person obtains a replacement licence under section 79F.

*Note—*

Until a replacement licence is obtained under 79F, the suspension continues under section 79B and it would be an offence against section 78 for the person to drive a motor vehicle for which a licence is required.

- ‘(4) A regulation may provide for matters relating to an order under subsection (2), including, for example, the following—
- (a) the persons who are eligible, and who are not eligible, to apply for an order;
  - (b) how and when an application for an order is to be made;
  - (c) the criteria to be used in deciding an application for an order;
  - (d) the types of restrictions the court may or must apply to a licence;
  - (e) the period for which an order is effective;
  - (f) variation of an order;
  - (g) the consequences for failing to comply with an order or a restriction applicable to a licence, including, for example, the creation of offences and the disqualification of a person from holding or obtaining a licence.

#### **‘79F Replacement licence if there is an order under s 79E**

- ‘(1) This section applies to a person authorised to continue to drive motor vehicles by an order under section 79E (a *section 79E order*).
- ‘(2) The person may apply, in an approved form, for a form of licence (a *replacement licence*) that is the same kind, class or description as the licence suspended under section 79B except for the inclusion of a code indicating that the holder of the licence is authorised to drive motor vehicles only under an order under section 79E.

- 
- ‘(3) In making a decision about the application, the chief executive must—
- (a) have regard to the section 79E order; and
  - (b) deal with the application as if it were an application for a Queensland driver licence.
- ‘(4) Despite subsection (3)(b), the chief executive may only refuse the application if under an Act—
- (a) the person’s licence is suspended or cancelled, or the person is disqualified from holding or obtaining a Queensland driver licence, for a reason other than the reason that resulted in the suspension to which the section 79E order relates; or
  - (b) the person’s licence would have been suspended or cancelled, or the person would have been disqualified from holding or obtaining a Queensland driver licence, except the person’s licence was already suspended under section 79B(2).’.

**56 Amendment of s 81 (Notices to offenders for certain first offences)**

Section 81(1)(a), ‘, (2D) or (2J)’—

*omit, insert—*

‘or (2D), or against (2J) while the person is the holder of a restricted licence’.

**57 Amendment of s 86 (Disqualification of drivers of motor vehicles for certain offences)**

Section 86(2)(e), after ‘a driver licence’—

*insert—*

‘, was a person to whom a replacement licence is issued under section 79F’.

**58 Amendment of s 127 (Effect of disqualification)**

- (1) Section 127(7), from ‘obtains’—

---

*omit, insert—*

‘obtains—

- (a) a restricted licence under an order made under section 87; or
  - (b) a replacement licence under section 79F’.
- (2) Section 127(13), from ‘apply to’—

*omit, insert—*

‘apply to either of the following obtained by or issued to any person—

- (a) a restricted licence under an order made under section 87;
- (b) a replacement licence under section 79F’.