

Explanatory Memorandum

Road Traffic Amendment Bill 2008

This Bill contains initiatives aimed at promoting road safety.

Amendments related to the impounding and confiscation of vehicles for impounding offences (driver's licences) are an important component of the Repeat Drink Driving Strategy. Further amendments introducing the balance of the Strategy will shortly be introduced into the Parliament.

The Strategy will provide that drivers convicted of certain drink driving offences will be able to regain authorisation to drive subject to the condition that they drive vehicles fitted with alcohol interlock devices only. This condition will be removed when a driver satisfies certain criteria.

In preparation for the introduction of the Strategy, these amendments are intended to provide a further, strong deterrent to unauthorised driving. This is considered necessary so that affected drink driving offenders will not consider unauthorised driving as an alternative to obtaining the proposed conditional driving authorisation.

In summary, the amendments will:

- expand the definition of an impounding offence (driver's licence) so that it encompasses other kinds of unauthorised driving, such as driving when a court has imposed a licence disqualification upon the driver;
- empower a member of the Police Force to impound a vehicle used in the commission of an impounding offence (driver's licence), without the current requirement that the alleged offender have previously been convicted of an impounding offence (driver's licence);
- provide that a member of the Police Force may impound a vehicle used in the commission of an impounding offence (driver's licence) for 28 days;
- provide that, where a person has committed previous impounding offences (driver's licence), the Commissioner of Police may seek a court order for the impounding or confiscation of a vehicle for which that person is a responsible person; and
- decrease the period of time the Commissioner of Police must wait to sell or dispose of an uncollected vehicle.

In addition, this Bill contains some amendments aimed at increasing the effectiveness of other vehicle impounding and confiscation provisions. It will also amend road rage and anti-hoon provisions of the RTA to:

- empower a member of the Police Force to impound a vehicle that has been used in the commission of an impounding offence (driving) for 7 days, or 28 days if the alleged offender has previously been convicted an impounding offence (driving);

- provide that a road rage offence may occur at a place other than a road, provided the event that triggered the offence occurs on a road or in a place open to and used by the public; and
- empower a court to make an alternative order, where the Commissioner of Police seeks a vehicle confiscation order, of impounding of up to 6 months.

1. Short title

When this Bill has received the Royal Assent, its title will be the *Road Traffic Amendment Act 2008*.

2. Commencement

This clause will provide for the commencement of operation of this Bill's title and commencement clauses on the day on which it receives the Royal Assent.

The commencement of operation of all other provisions will occur by the publication of a proclamation or proclamations in the *Government Gazette*.

This is because a short lead-in time may be required for the commencement of operation of some provisions, to enable the Western Australia Police to prepare to enforce them.

The replacement definition of an "impounding offence (driver's licence)" that will be inserted by clause 5(a) is predicated on sections 49 and 77 of the *Road Traffic Act 1974* as they will be amended by the *Road Traffic Amendment Act 2006*. For this reason, clause 2(2) provides that it may not commence operation until the relevant section of the *Road Traffic Amendment Act 2006* has first commenced operation. This is expected to occur early during the second half of 2008.

3. The Act amended

All of the clauses in this Bill will amend the *Road Traffic Act 1974*.

4. Section 60 amended

Section 60 creates the offence of reckless driving.

Paragraph (a) will amend the maximum penalty that a court may impose upon a person convicted of a first offence.

Paragraph (b) will amend the maximum penalty that a court may impose upon a person convicted of a second offence.

Paragraph (c) will amend the maximum penalty that a court may impose for a third or subsequent offence.

5. Section 78A amended

Section 78A contains definitions relevant for the purposes of Part V Division 4 of the *Road Traffic Act 1974* (“the RTA”), which deals with vehicle impounding and confiscation in certain circumstances. This clause will amend existing definitions and insert new definitions as follows.

Impounding offence (driver’s licence)

Paragraph (a) will replace the existing definition of an “impounding offence (driver’s licence)” with a new definition.

Presently, an impounding offence (driver’s licence) is an unauthorised driving offence, where the driving is unauthorised because the Director General has suspended, cancelled, refused to renew or refused to issue a driver licence because of a person’s addiction to alcohol or drugs, or mental disorder or physical disability, or because the person is no longer capable of controlling a motor vehicle.

Under the new, broadened definition, a person will commit an impounding offence (driver’s licence) if the person’s driving is unauthorised because:

- the Director General has suspended, cancelled or refused to renew the person’s driver licence, in any circumstance;
- the Director General has refused to issue the person with a driver licence, in any circumstance;
- a court has imposed a licence disqualification upon the person;
- the person’s licence is subject to a disqualification because of the accumulation of an excessive number of demerit points; or
- the person has an extraordinary licence and is driving contrary to a licence condition relating to the time within which, purpose for which and/or locality in which, the licence authorises the person to drive.

References in the new definition to sections 49(1)(a) and 49(3)(a), (b) and (c) of the RTA are references to those sections as they will be amended by the *Road Traffic Amendment Act 2006*, which is expected to commence operation early during the second half of 2008.

An impounding offence (driver’s licence), pursuant to the existing definition, will be able to be considered an impounding offence (driver’s licence) after the introduction of the new definition, for the purposes of determining whether a person has committed a previous impounding offence (driver’s licence).

Impounding period

Clauses 7 and 8 respectively will increase the duration of a vehicle impounding by a member of the Police Force following the commission of an impounding offence (driving) and an impounding offence (driver’s

licence). The relevant impounding periods may be of different duration, depending upon which impounding offence is suspected of having been committed, and whether the alleged offender has previously been convicted of an offence.

Clause 17 will empower a court to order a vehicle be impounded for up to 6 months in certain circumstances, as an alternative to ordered the vehicle's confiscation.

In addition, the RTA currently empowers a court to order a vehicle be impounded for up to 3 months in certain circumstances.

As a result, paragraph (b) amends the definition, "impounding period", to clarify that the duration of an impounding period will be the duration specified in the relevant section of the RTA or a duration specified by a court pursuant to a power conferred by a particular section of the RTA.

Road rage circumstances

Paragraph (c) will amend the definition of "road rage circumstances" so that an assault or property damage that occurs on private property will constitute a "road rage offence", provided the event that triggered the assault or property damage occurred on a road, or a place open to and used by the public, such as a car park.

Senior police officer

Paragraph (d) contains a technical amendment. It will replace the definition, "senior officer", with the definition, "senior police officer". The term "senior police officer" is used in the *Criminal Investigation Act 2006* ("the CIA") to describe an officer of the same rank as the current RTA term "senior officer". To maintain consistency and clarity, the RTA definition, and corresponding references to "senior officer", are being amended to match the CIA definition.

Impounding or confiscation order

Paragraph (e) contains a technical amendment.

Sections 80(1), 80A(1), 80B(1), 80C(1), 80CA(1) and 80CB(1) empower a court to order the impounding of a vehicle or the confiscation of a vehicle for an impounding offence (driving), an impounding offence (driver's licence) and a road rage offence in specified circumstances. Wherever in Part V Division 4 of the *Road Traffic Act 1974* it is necessary to refer to the gamut of the court's vehicle impounding and confiscation powers, these sections are listed off. This occurs in numerous places throughout Part V Division 4.

Listing the sections is unwieldy and the term, "impounding or confiscation order", is to be substituted by clause 24 in place of those lists wherever such references currently appear.

Impounding order

Paragraph (f) contains a technical amendment.

Sections 80(1), 80B(1) and 80CA(1) empower a court to order the impounding of a vehicle for an impounding offence (driving), an impounding offence (driver's licence) and a road rage offence in specified circumstances. Wherever in Part V Division 4 of the *Road Traffic Act 1974* it is necessary to refer to the gamut of the court's vehicle impounding powers, these sections are listed off. This occurs in numerous places throughout Part V Division 4.

Listing the sections in unwieldy and the term, "impounding order", is to be substituted by clause 25 in place of those lists wherever such references currently appear.

Vehicle referred to in section 80GA

Paragraph (f) will insert this new definition, which is necessary as a consequence of clause 19.

Clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the impounding or confiscation of a vehicle, in respect of impounding offences (driver's licence) or road rage offences, unless the offender is the responsible person for the vehicle.

Section 80GA will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Where the offender is not the responsible person for that vehicle, section 80GA will empower the Commissioner to seek the order in respect of another vehicle for which the offender is the responsible person.

Relevant references in the *Road Traffic Act 1974* to "the vehicle used in the commission of the offence" will therefore be amended to references to a "vehicle referred to in section 80GA".

6. Section 78B amended

Clauses 7 and 8 respectively will substantially increase the duration of a vehicle impounding by a member of the Police Force following the commission of a suspected impounding offence (driving) or impounding offence (driver's licence).

This clause is intended to clarify that, where:

- such a vehicle impounding occurs; and

- a court subsequently convicts the alleged offender of the impounding offence; and
- because the offender has previously committed one or more previous impounding offences, the Commissioner of Police applies to the court for an impounding or confiscation order,

the court is not to have regard to the vehicle impounding by the member of the Police Force in determining whether or not to grant the Commissioner's application.

7. Section 79 amended

Paragraph (a) will provide for the existing section 79 to be renumbered as subsection 79(1), as paragraph (c) will insert new subsections 79(2) through (5).

Paragraph (b) will remove reference in section 79 to the duration of impounding by a member of the Police Force, of a vehicle suspected to have been used in the commission of an impounding offence (driving). This matter will be dealt with in the new subsections 79(2) through (5).

Paragraph (c) will insert new subsections 79(2) through (5).

Proposed subsection 79(2) will provide that a member of the Police Force may impound a vehicle suspected to have been used in the commission of an impounding offence (driving) for 7 days, unless the member has reason to believe that the alleged offender has been convicted of a previous impounding offence (driving). In such a case, the member will be empowered to impound the vehicle for 28 days.

Proposed subsection 79(3) will provide that, where a member of the Police Force impounds a vehicle suspected to have been used in the commission of an impounding offence (driving) for 7 days, the Commissioner of Police may extend the impounding period to 28 days where the Commissioner subsequently discovers that the alleged offender has been convicted of a previous impounding offence (driving).

Proposed subsection 79(4) is intended to clarify that the Commissioner may extend the impounding period for an impounding offence (driving) from 7 days to 28 days, even though the member of the Police Force who detected the alleged impounding offence (driving) took action at that time to impound the vehicle for a period of 7 days only.

Proposed subsection 79(5) requires that, where the Commissioner wishes to extend the impounding period from 7 days to 28 days of a vehicle suspected to have been used in the commission of an impounding offence (driving), because the alleged offender has been convicted of a previous impounding offence (driving), the extension will not be valid unless the Commissioner gives notice of the extension to a

responsible person for the vehicle at least 24 hours before the initial 7-day impounding period ends.

8. Section 79A amended

Paragraph (a) will increase the duration of impounding by a member of the Police Force of a vehicle suspected to have been used in the commission of an impounding offence (driver's licence) from 48 hours to 28 days.

In the case of an impounding offence (driving), clause 7 will provide that a member of the Police Force may impound a vehicle for a period of 7 days, or for a period of 28 days if the alleged offender has been convicted of a previous impounding offence (driving).

The reason for the distinction between duration of impounding periods is that an impounding offence (driving) is a "hoon" offence where the racing or driving at speed of the vehicle is an integral element of the offence. The policy purpose for empowering a member of the Police Force of impounding a vehicle used in the commission of an impounding offence (driving) is to bring an immediate stop to the dangerous driving behaviour, as well as to act as a deterrent to that behaviour. In the case of an impounding offence (driving), the impounding brings to an end the commission of the offence and the immediate opportunity to commit further offences.

It is argued, however, that a longer impounding period is appropriate in the case of an impounding offence (driver's licence). Clause 5 will amend the definition of an impounding offence (driver's licence) to broaden the kinds of unauthorised driving that will constitute an impounding offence.

Unauthorised driving represents a major problem for road safety. Firstly, it undermines the effectiveness of driver licensing systems by preventing the allocation of demerit points and reducing the impact of licence loss, which has otherwise been demonstrated to be a very effective deterrent to illegal behaviour. Secondly, there is a growing body of evidence linking unauthorised driving, particularly disqualified driving, to a cluster of high-risk behaviours including drink driving, speeding and failure to wear a seat belt.

The impounding for 28 days of a vehicle following the suspected commission of an impounding offence (driver's licence) will bring an immediate stop to the unauthorised driving and will remove the unauthorised driver from the road. The proposed increase in the impounding period is intended to act as a strong deterrent from unauthorised driving and to limit the opportunity in the short term for the unauthorised driving to continue.

Paragraph (b) will remove the requirement that a person, suspected by a member of the Police Force of having committed an impounding

offence (driver's licence), must have been convicted of a previous impounding offence (driver's licence) before the member is empowered to impound the vehicle used in the commission of the alleged offence.

This amendment will bring uniformity to the circumstances in which a vehicle may be impounded by a member of the Police Force, in the case of either a suspected impounding offence (driving) or a suspected impounding offence (driver's licence).

9. Section 79B amended

Clause 9(1) contains technical amendments. As the *Road Traffic Act 1974* contemplates that there may be more than one responsible person for a vehicle, it amends relevant references to responsible persons in section 79B(1) accordingly.

Clause 9(2) will amend section 79B(2) as follows.

Paragraph (a) will clarify that the notice referred to in subsection 79B(2) is the notice that must be given following the impounding of a vehicle by a member of the Police Force. The proposed new subsection 79B(4) will deal with the notice of extension that must be given if the Commissioner of Police determines to extend the impounding period in the case of a suspected impounding offence (driving) from 7 days to 28 days, because the alleged offender has been convicted of a previous impounding offence (driving).

Paragraph (b) contains a technical amendment that does not change the substance of section 79B(2). It is related to drafting style only.

Paragraph (c) will insert the requirement for further information to be given in a notice of impounding, where a member of the Police Force impounds a vehicle suspected to have been used in the commission of an impounding offence (driving) for a period of 28 days, because the alleged offender has been convicted of a previous offence. In such circumstances, the notice of impounding will also be required to contain details of the relevant previous conviction.

Paragraph (d) will add reference in the notice of impounding to the powers of a court under the proposed new section 80FA that will be inserted by clause 17. That section will empower a court to order the impounding of a vehicle for a period of up to 6 months, where the Commissioner of Police seeks a confiscation order in respect of the vehicle but the court does not consider it appropriate to order confiscation in the particular case.

Paragraph (e) contains a technical amendment that does not change the substance of section 79B(2). It is related to drafting style only.

Clause 9(3) will insert new subsections 79B(3) and (4).

Proposed new subsection 79B(3) will provide that, where the Commissioner extends the impounding period from 7 days to 28 days of a vehicle suspected to have been used in the commission of an impounding offence (driving), because the alleged offender has been convicted of a previous impounding offence (driving), the Commissioner must notify each responsible person for the vehicle of the extension as soon as practicable following the extension.

This differs from the requirement imposed upon the Commissioner by proposed new subsection 79(5) that will be inserted by clause 7. That subsection will provide that an extension will not be valid unless the Commissioner gives notice of the extension to a responsible person for the vehicle at least 24 hours before the initial 7-day impounding period ends.

By contrast, proposed new subsection 79B(3) is aimed at ensuring that all responsible persons are made aware of the extension within a reasonable timeframe following its occurrence, however the extension will not be rendered invalid because of any inability on the part of the Commissioner to do so.

Proposed new subsection 79B(4) sets out the information that a notice of extension must contain. It largely replicates the information that must be provided in a notice of impounding.

10. Section 79C amended

Section 79C requires that, where a member of the Police Force impounds a vehicle suspected to have been used in the commission of an impounding offence (driving) or an impounding offence (driver's licence), the member must inform a senior officer of the impounding. It also requires the senior officer to conduct inquiries to confirm that there were grounds for the impounding, and to take appropriate action if not satisfied that those grounds existed.

Clauses 10(1)(a), 10(2)(a) and 10(3)(a) contain technical amendments. They will provide for references to "senior officer" to be amended to references to "senior police officer". This new terminology will not alter the effect of section 79D, but is intended to reflect the terminology used in, and to maintain consistency with, the *Criminal Investigation Act 2006* ("the CIA") to describe an officer of the same rank as the current term, "senior officer".

Clauses 10(1)(b) and 10(2)(b) will add an additional matter in respect of which a senior police officer must be satisfied, if applicable. The additional matter relates to the impounding of a vehicle suspected to have been used in the commission of an impounding offence (driving). Clause 7 will empower a member of the Police Force to impound such a vehicle for 7 days, or for 28 days where the member has reason to believe that the alleged offender has been convicted of a previous impounding offence (driving).

Where a member of the Police Force impounds a vehicle for 28 days, because of a belief that the alleged offender has been convicted of a previous impounding offence (driving), clauses 10(1)(b) and 10(2)(b) will require a senior police officer to also make enquiries into whether or not the member had reasonable grounds for such a belief.

Clauses 10(3)(b) and 10(4) will provide that, where a senior police officer is not satisfied that a member of the Police Force had reasonable grounds to believe that an alleged offender had been convicted of a previous impounding offence (driving), the senior police officer must take steps to adjust the duration of the impounding period and to ensure that the impounding period ends after 7 days rather than 28 days.

Clauses 10(3)(c) and (d) contain technical amendments. As the *Road Traffic Act 1974* contemplates that there may be more than one responsible person for a vehicle, they amend relevant references to responsible persons in section 79C(3) accordingly.

11. Section 79D amended

Paragraph (a) contains a technical amendment. It will provide for references to “senior officer” to be amended to references to “senior police officer”. This new terminology will not alter the effect of section 79D, but is intended to reflect the terminology used in, and to maintain consistency with, the *Criminal Investigation Act 2006* (“the CIA”) to describe an officer of the same rank as the current term, “senior officer”.

Paragraph (b) contains a technical amendment, necessary because the current section 79C(2) will be renumbered as section 79C(2)(a) by clause 10.

12. Section 80B amended

This amendment is necessary because of clause 19.

Section 80B empowers a court to order the impounding of a vehicle, where a person is convicted of a second impounding offence (driver’s licence) within a specified timeframe.

Clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the impounding of a vehicle pursuant to section 80B, unless the offender is the responsible person for the vehicle.

Section 80GA will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Where the offender is not the responsible person for that vehicle, section 80GA will empower the Commissioner to seek the order in respect of another vehicle for which the offender is the responsible person.

This clause will therefore amend reference in section 80B to “the vehicle used in the commission of the offence” to reference to “a vehicle referred to in section 80GA”.

13. Section 80C amended

This amendment is necessary as a consequence of clause 19.

Section 80C empowers a court to order the confiscation of a vehicle, where a person is convicted of a third impounding offence (driver’s licence) within a specified timeframe.

Clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the confiscation of a vehicle pursuant to section 80C, unless the offender is the responsible person for the vehicle.

Section 80GA will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Where the offender is not the responsible person for that vehicle, section 80GA will empower the Commissioner to seek the order in respect of another vehicle for which the offender is the responsible person.

This clause will therefore amend reference in section 80C to “the vehicle used in the commission of the offence” to reference to “a vehicle referred to in section 80GA”.

14. Section 80CA amended

The amendments contained in clauses 14(1)(a) and 14(2) are necessary as a consequence of clause 19.

Section 80CA empowers a court to order the impounding of a vehicle, where a person is convicted of a road rage offence.

Clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the impounding of a vehicle pursuant to section 80CA, unless the offender is the responsible person for the vehicle.

Section 80GA will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Where the offender is not the responsible person for that vehicle, section 80GA will empower the Commissioner to seek the order in respect of another vehicle for which the offender is the responsible person.

Clause 14(1) will therefore amend reference in section 80CA(1) to “the vehicle that the offender was using” to reference to “a vehicle referred to in section 80GA”. Clause 14(2) will delete the definition of “vehicle that the offender was using”.

Clause 14(1)(b) is necessary as a consequence of clause 17 which will insert a new section 80FA.

Presently, where a person is convicted of a road rage offence, the Commissioner may apply either for an impounding order of up to 3 months’ duration or for a confiscation order. It is not necessary for the offender to have been previously convicted of one or more road rage offences.

Section 80FA will empower a court to order the impounding of a vehicle for a period of up to 6 months, where the Commissioner of Police seeks a confiscation order in respect of the vehicle but the court does not consider it appropriate to order confiscation in the particular case.

Without the change contained in clause 14(1)(b), the duration of impounding period that the court could order in respect of a road rage offence would differ depending upon whether the Commissioner had sought an impounding order or a confiscation order, producing an absurd result.

For this reason, clause 14(1)(b) will amend section 80CA to provide that the Commissioner may seek an impounding order of up to 6 months

15. Section 80CB amended

This clause is necessary as a consequence of clause 19.

Section 80CB empowers a court to order the confiscation of a vehicle, where a person is convicted of a road rage offence.

Clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the confiscation of a vehicle pursuant to section 80CB, unless the offender is the responsible person for the vehicle.

Section 80GA will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Where the offender is not the responsible person for that vehicle, section 80GA will empower the Commissioner to seek the order in respect of another vehicle for which the offender is the responsible person.

This clause will therefore amend reference in section 80CB(1) to “the vehicle that the offender was using” to reference to “a vehicle referred to in section 80GA”, and will delete the definition of “vehicle that the offender was using”.

16. Section 80E amended

This clause 16 is necessary as a consequence of clause 19.

Clause 19 will insert a new section 80GA that will provide that an application to a court for an impounding order or a confiscation, because of a person’s conviction of an impounding offence (driver’s licence) or a road rage offence, may only be made in respect of a vehicle for which the offender is a responsible person.

This amendment renders obsolete references in section 80E to impounding orders and confiscation orders for impounding offences (driver’s licence) and road rage offences. Clause 16 therefore removes these obsolete references.

17. Section 80FA

This clause will insert a new section 80FA.

Proposed new subsection 80FA(1) will empower a court to order the impounding of a vehicle for a period of up to 6 months, where the Commissioner of Police seeks a confiscation order in respect of the vehicle but the court does not consider it appropriate to order confiscation in the particular case.

The court’s powers under the existing section 80E(2) will be transferred to proposed new subsection 80FA(2). These powers may be exercised in respect of a vehicle that has been used in the commission of a third impounding offence (driving), and which vehicle the court would be empowered to order be confiscated but for the fact that it was a “lent” vehicle. Currently, under section 80E(2), the court is empowered to order that the vehicle be impounded for up to 6 months.

18. Section 80F amended

This clause contains a technical amendment. As the *Road Traffic Act 1974* contemplates that there may be more than one responsible

person for a vehicle, reference in section 80F to “the” responsible person for the vehicle will be amended to reference to “a” responsible person for the vehicle.

19. Section 80GA inserted

This clause will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the impounding or confiscation of a vehicle, in respect of an impounding offence (driver’s licence) or a road rage offence, unless the offender is the responsible person for the vehicle.

Proposed new subsection 80GA(1) will provide that where the offender is the responsible person for the vehicle used in the commission of the relevant offence, the order is to be sought in respect of that vehicle.

Proposed new subsection 80GA(2) will provide that, where the offender is not the responsible person for that vehicle, the Commissioner will be empowered to seek the order in respect of another “substitute” vehicle for which the offender is the responsible person at the time of the Commissioner’s application.

Proposed new subsection 80GA(3) will require the Commissioner to provide notice to the alleged offender of the intention to apply for an order in respect of a substitute vehicle.

These proposed amendments are intended to ensure that the impounding or confiscation sanction targets the offender, in order to provide a greater deterrent against the undesirable behaviour.

In the case of an impounding offence (driving), any court order will continue to be made in respect of the vehicle used in the commission of the impounding offence (driving). This is because the vehicle is considered integral to these offences, in many cases being a high-powered, high-performance vehicle, used in very specific driving circumstances. Impounding or confiscating these vehicles is intended to prevent, as well as to deter offenders from, the commission of further impounding offences (driving).

20. Section 80G amended

The amendments contained in this clause are technical in nature and do not alter the intent of section 80G.

Clauses 20(1), 20(3) and 20(4) are necessary because clause 19 will insert a new section 80GA that will provide that the Commissioner of Police may not apply for a court order for the impounding or confiscation of a vehicle, in respect of an impounding offence (driver’s licence) or a road rage offence, unless the offender is the responsible person for the vehicle.

For this reason, clauses 20(1), 20(3) and 20(4) will break the nexus between references to a person's conviction of an impounding offence and an application for an impounding or confiscation order in respect of the vehicle used in the commission of that offence.

Clause 20(2) will replace the existing subsections 80G(3) and (4) with proposed new subsections 80G(3) and (4). The intent of the existing subsections will not be affected. The amendments are related to drafting style.

Section 80G(3)(c) currently requires the Commissioner of Police to notify the Director General that the Commissioner intends to seek an impounding order or a confiscation order in respect of a vehicle. Section 80G(7) currently requires that, where the Director General has been so notified, he or she is not to transfer the licence of the vehicle the subject of that application.

Clause 20(5) will transfer the Commissioner's current notification requirement from section 80G(3)(c) to the replacement section 80G(7).

21. Section 80IA amended

This clause contains a technical amendment. As the *Road Traffic Act 1974* contemplates that there may be more than one responsible person for a vehicle, reference in section 80IA to "the" responsible person for the vehicle will be amended to reference to "a" responsible person for the vehicle.

22. Section 80J amended

In view of the broadened scope of the definition, "impounding offence (driver's licence)", it is considered likely that there will be a significant increase in the numbers of vehicles impounded either by a member of the Police Force or by order of a court.

Clause 22(1) will decrease the period of time for which the Commissioner of Police must continue to hold an impounded vehicle that is not collected when the applicable impounding period ends, from 2 months to 28 days.

Clause 22(2) contains a technical amendment. As the *Road Traffic Act 1974* contemplates that there may be more than one responsible person for a vehicle, reference in section 80J(4)(a) to "the" responsible person for the vehicle will be amended to reference to "each" responsible person for the vehicle.

23. Certain cross references amended

Clause 7 will amend section 79 to renumber it as subsection 79(1) and to insert proposed new subsections 79(2) through (5).

This clause will therefore provide for any relevant references to section 79 to be amended to references to section 79(1).

24. Certain references to impounding or confiscation order amended

This clause contains technical amendments.

Sections 80(1), 80A(1), 80B(1), 80C(1), 80CA(1) and 80CB(1) empower a court to order the impounding of a vehicle or the confiscation of a vehicle for an impounding offence (driving), an impounding offence (driver's licence) and a road rage offence in specified circumstances. Wherever in Part V Division 4 of the *Road Traffic Act 1974* it is necessary to refer to the gamut of the court's vehicle impounding and confiscation powers, these sections are listed off. This occurs in numerous places throughout Part V Division 4.

Listing the sections is unwieldy and the term, "impounding or confiscation order", is to be substituted by this clause in place of those lists wherever such references currently appear.

25. Certain references to impounding order amended

This clause contains technical amendments.

Sections 80(1), 80B(1) and 80CA(1) empower a court to order the impounding of a vehicle for an impounding offence (driving), an impounding offence (driver's licence) and a road rage offence in specified circumstances. Wherever in Part V Division 4 of the *Road Traffic Act 1974* it is necessary to refer to the gamut of the court's vehicle impounding powers, these sections are listed off. This occurs in numerous places throughout Part V Division 4.

Listing the sections in unwieldy and the term, "impounding order", is to be substituted by this clause in place of those lists wherever such references currently appear.