



MESSAGE No. 40

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Road Traffic Amendment (Hoons) Bill 2009* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes.

Hon Barry House
President of the Legislative Council

Legislative Council Chamber
Perth, 23 September 2009

No. 1

Page 20, lines 13 to 19 — To delete the clause.

No. 2

Page 20, after line 12 — To insert —

16. Section 79E replaced

Delete section 79E and insert:

79E. Liability for expenses of police impounding

If a vehicle is impounded under this Subdivision and a person is convicted of the offence for which the vehicle was impounded, that person is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle less —

- (a) any amount received by the Commissioner under section 80IB(1); and
- (b) any amount received by the Commissioner under section 80JA(8)(b),

in relation to impounding the vehicle.

No. 3

Page 23, after line 11 — To insert —

24A. Section 80JA inserted

After section 80I insert:

80JA. Commissioner may sell vehicle impounded under s. 79A at any time with consent of owner etc.

- (1) In this section —

impounded vehicle means a vehicle that is impounded under section 79A;

interest, in relation to a vehicle, means a legal or equitable interest, right or title in or to the ownership or possession of the vehicle.

- (2) If the Commissioner is satisfied that each person who has an interest in an impounded vehicle has, in accordance with subsection (4), consented to the Commissioner doing so, the Commissioner, on behalf of those persons, may sell or otherwise dispose of the vehicle.

- (3) The Commissioner may sell or otherwise dispose of a vehicle under subsection (2) —

- (a) even if the impounding period has not elapsed; and
 - (b) even if the Commissioner may sell the vehicle under section 80J; and
 - (c) whether or not a charge of an offence for which the vehicle was impounded has been heard or determined by a court; and
 - (d) whether or not any appeal against the conviction for an offence for which the vehicle was impounded or confiscated has been concluded.
- (4) The consent of a person who has an interest in an impounded vehicle to the Commissioner selling or otherwise disposing of the vehicle has no effect unless —
 - (a) the person has been informed in accordance with subsection (5); and
 - (b) the consent is in writing and signed by the person; and
 - (c) the consent is given at least 48 hours after the vehicle is impounded.
- (5) The Commissioner must ensure a person who has an interest in an impounded vehicle is informed —
 - (a) of the effect of this Division in relation to impounding and selling vehicles; and
 - (b) of the liabilities that this Division imposes on persons for the costs and expenses incurred by the Commissioner.
- (6) The Commissioner may require a person who has an interest in an impounded vehicle to provide information to the Commissioner for the purposes of this section in a statutory declaration.
- (7) If the Commissioner sells or otherwise disposes of an impounded vehicle under subsection (2) —
 - (a) the Commissioner must release the vehicle to the buyer; and
 - (b) the buyer obtains a good title to the vehicle if the person acquires it in good faith and without notice of any failure to comply with this section in relation to the sale or disposal; and
 - (c) the proceeds of the sale are to be paid in the order of priority provided by subsection (8).
- (8) The proceeds of the sale or disposal of a vehicle under subsection (2) are to be paid in the following order of priority —
 - (a) for expenses incurred in selling the vehicle;
 - (b) for the expenses specified by the Commissioner as being equivalent to all expenses reasonably incurred by the Commissioner in impounding the vehicle;
 - (c) if the sale or disposal occurs after the impounding period ends, for expenses (if any) incurred in storing the vehicle after that period ends;
 - (d) the balance —
 - (i) if only one person has an interest in the vehicle, to that person;
 - (ii) if there are 2 or more persons who each have an interest in the vehicle, to each such person according to the proportion that the value of the person's interest bears to the value of the vehicle.
- (9) If an impounded vehicle is sold or otherwise disposed of under subsection (2) and —

- (a) no charge is laid for the offence for which the vehicle was impounded within 3 months after the date of the offence; or
- (b) the charge for that offence is withdrawn or dismissed for want of prosecution; or
- (c) the person charged with that offence is acquitted,

the Commissioner must pay to the person or persons referred to in subsection (8)(d) in accordance with that paragraph an amount equal to the amounts paid under subsection (8)(a), (b) and (c).

No. 4

Page 24, after line 8 — To insert —

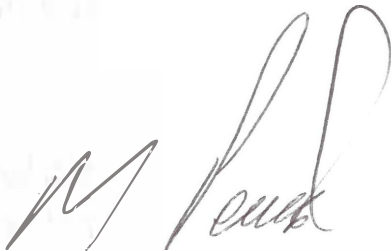
25A. Section 80K amended

- (1) At the beginning of section 80K insert:

- (1) If a vehicle is sold under section 80JA(2) but the proceeds of the sale are insufficient to pay the expenses incurred in selling it, the person because of whose conviction the vehicle was impounded is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

- (2) In section 80K delete “If” and insert:

- (2) If



Clerk of the Legislative Council