



Queensland

# **Police Powers and Responsibilities (Motor Vehicle Impoundment) Amendment Bill 2011**





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# Police Powers and Responsibilities (Motor Vehicle Impoundment) Amendment Bill 2011

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**2011**

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**A Bill**

for

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

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**The Parliament of Queensland enacts—** 1

<b>Clause 1</b>	<b>Short title</b>	2
	This Act may be cited as the <i>Police Powers and Responsibilities (Motor Vehicle Impoundment) Amendment Act 2011</i> .	3 4 5
<b>Clause 2</b>	<b>Commencement</b>	6
	This Act commences on a day to be fixed by proclamation.	7
<b>Clause 3</b>	<b>Act amended</b>	8
	This Act amends the <i>Police Powers and Responsibilities Act 2000</i> .	9 10
<b>Clause 4</b>	<b>Amendment of s 69 (Definitions for ch 4)</b>	11
	(1) Section 69, definitions <i>burn out</i> and <i>initial impoundment period</i> —	12 13
	<i>omit</i> .	14
	(2) Section 69—	15
	<i>insert</i> —	16
	<i>‘automatic impoundment period</i> , for a motor vehicle, means—	17 18
	(a) a period of 28 days starting when the motor vehicle is impounded; or	19 20
	<i>Example for paragraph (a)</i> —	21
	A motor vehicle is impounded at 3p.m. on Tuesday, 1 November. The automatic impoundment period ends at 3p.m. on Tuesday, 29 November.	22 23 24
	(b) if the period of 28 days ends at any time other than between 8a.m. and 5p.m. on a business day, a period starting when the motor vehicle is impounded and	25 26 27

ending at 8a.m. next occurring on a business day after  
the period of 28 days ends. 1 2

*Examples for paragraph (b)—* 3

1 A motor vehicle is impounded at 2a.m. on Thursday, 3  
November. The period of 28 days ends at 2a.m. on  
Thursday, 1 December. However, the automatic  
impoundment period ends at 8a.m. on Thursday, 1  
December. 4 5 6 7 8

2 A motor vehicle is impounded at 7p.m. on Friday, 4  
November. The period of 28 days ends at 7p.m. on Friday, 2  
December. However, the automatic impoundment period  
ends at 8a.m. on Monday, 5 December. 9 10 11 12

***burn out***, for a motor vehicle, means wilfully drive the motor  
vehicle in a way that causes a sustained loss of traction of one  
or more of the drive wheels with the road surface. 13 14 15

*Examples—* 16

- driving a motor vehicle in a way that causes a sustained loss of  
traction of one or more of the drive wheels with a road surface so  
that the tyres or a substance poured onto the road surface, or both,  
smoke 17 18 19 20
- driving a motor vehicle in a way that causes a sustained loss of  
traction of one or more of the drive wheels with a wet or gravelled  
road surface, regardless of whether or not the tyres smoke because  
of the loss of traction 21 22 23 24

***initial impoundment period—*** 25

(a) for a motor vehicle other than a motorbike mentioned in  
paragraph (b), means— 26 27

(i) a period of 7 days starting when the motor vehicle  
is impounded; or 28 29

*Example for subparagraph (i)—* 30

A motor vehicle is impounded at 3p.m. on Tuesday, 1  
November. The initial impoundment period ends at 3p.m.  
on Tuesday, 8 November. 31 32 33

(ii) if the period of 7 days ends at any time other than  
between 8a.m. and 5p.m. on a business day, a  
period starting when the motor vehicle is  
impounded and ending at 8a.m. next occurring on a  
business day after the period of 7 days ends; or 34 35 36 37 38

[s 5]

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	<i>Examples for subparagraph (ii)—</i>	1
	1 A motor vehicle is impounded at 2a.m. on Thursday, 3 November. The period of 7 days ends at 2a.m. on Thursday, 10 November. However, the initial impoundment period ends at 8a.m. on Thursday, 10 November.	2 3 4 5 6
	2 A motor vehicle is impounded at 7p.m. on Friday, 4 November. The period of 7 days ends at 7p.m. on Friday, 11 November. However, the initial impoundment period ends at 8a.m. on Monday, 14 November.	7 8 9 10 11
	(b) for a motorbike, if the offence in relation to which the motorbike is impounded is a motorbike noise direction offence or a motorbike noise order offence, means—	12 13 14
	(i) a period of 48 hours starting when the motorbike is impounded; or	15 16
	(ii) if the period of 48 hours ends at any time other than between 8a.m. and 5p.m. on a business day, a period starting when the motorbike is impounded and ending at 8a.m. next occurring on a business day after the period of 48 hours ends.’.	17 18 19 20 21
<b>Clause 5</b>	<b>Amendment of s 69A (Meaning of <i>type 1</i> and <i>type 2</i> vehicle related offences)</b>	22 23
	(1) Section 69A(2)—	24
	<i>insert—</i>	25
	‘(f) an offence against the Road Use Management Act involving a driver of a motor vehicle in circumstances in which the driver exceeds a speed limit, applying to the driver for the length of road where the driver is driving, by more than 40km/h.	26 27 28 29
	<i>Example of offence for paragraph (f)—</i>	30
	an offence against the <i>Transport Operations (Road Use Management—Road Rules) Regulation 2009</i> , section 20’.	31 32
	(2) Section 69A—	33
	<i>insert—</i>	34

‘(3A) A reference in subsection (2)(e) to an offence involving a motor vehicle being driven on a road includes an offence involving modifying a vehicle if the vehicle is driven on a road.’.

**Clause 6 Omission of s 70A (References to type 2 vehicle related offences including the same kind)**

Section 70A—  
*omit.*

**Clause 7 Insertion of new s 71A**

After section 71—  
*insert—*

**‘71A Service of infringement notice for pre-impoundment type 2 vehicle related offence and effect of service**

‘(1) This section applies in relation to a person who commits a type 2 vehicle related offence if—

(a) it is an infringement notice offence, the commission of which does not make the motor vehicle used in the commission of the offence eligible for impoundment under section 74 or 74B; and

(b) a police officer serves an infringement notice for the offence on the person.

‘(2) For this chapter, the person is taken to be charged with having committed the offence when the infringement notice is served on the person.

*Note—*

See the *State Penalties Enforcement Act 1999*, sections 13 (Service of infringement notices—generally) and 14 (Service of infringement notices for infringement notice offences involving vehicles).’.

**Clause 8 Omission of ch 4, pt 1, div 3**

Chapter 4, part 1, division 3—  
*omit.*

[s 9]

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<b>Clause 9</b>	<b>Amendment of s 74 (Impounding motor vehicles)</b>	1
	Section 74, heading, after ‘vehicles’—	2
	<i>insert—</i>	3
	<b>‘for initial impoundment period’.</b>	4
<b>Clause 10</b>	<b>Insertion of new ss 74A and 74B</b>	5
	After section 74—	6
	<i>insert—</i>	7
<b>‘74A</b>	<b>Impounding motor vehicles for automatic impoundment period if second or subsequent type 1 related offence</b>	8 9 10
	‘(1) A police officer may impound a motor vehicle if the driver of the motor vehicle is charged with having committed a type 1 vehicle related offence and—	11 12 13
	(a) the driver of the motor vehicle has previously been charged with having committed a type 1 vehicle related offence on 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment; or	14 15 16 17 18
	(b) the driver of the motor vehicle has previously been found guilty of a type 1 vehicle related offence committed on 1 previous occasion within the relevant period.	19 20 21 22
	‘(2) A motor vehicle impounded under subsection (1) may be impounded for the automatic impoundment period.	23 24
<b>‘74B</b>	<b>Impounding motor vehicles for automatic impoundment period if third or subsequent type 2 related offence</b>	25 26 27
	‘(1) A police officer may impound a motor vehicle if the driver of the motor vehicle is charged with having committed a type 2 vehicle related offence and—	28 29 30
	(a) the driver of the motor vehicle has previously been charged with having committed type 2 vehicle related	31 32

	offences on 2 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment; or	1 2 3
	(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	4 5 6 7
	(c) the driver of the motor vehicle—	8
	(i) has previously been found guilty of having committed a type 2 vehicle related offence on 1 previous occasion within the relevant period; and	9 10 11
	(ii) 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.	12 13 14 15 16
	‘(2) A motor vehicle impounded under subsection (1) may be impounded for the automatic impoundment period.’	17 18
<b>Clause 11</b>	<b>Amendment of s 75 (Particular powers for impounding motor vehicles)</b>	19 20
	Section 75(1), after ‘74’—	21
	<i>insert—</i>	22
	‘, 74A or 74B’.	23
<b>Clause 12</b>	<b>Amendment of s 78 (Impounding notice for vehicle related offence)</b>	24 25
	(1) Section 78(3) to (8)—	26
	<i>renumber</i> as section 78(4) to (9).	27
	(2) Section 78—	28
	<i>insert—</i>	29
	‘(3) However, if the motor vehicle is impounded only for the initial impoundment period, subsection (2)(b) does not apply	30 31

[s 13]

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in relation to an owner who is a holder of a security interest  
registered for the vehicle under the *Motor Vehicles and Boats  
Securities Act 1986*.’. 1  
2  
3

<b>Clause 13</b>	<b>Amendment of s 81 (Content of notice for second or subsequent type 1 vehicle related offence)</b>	4 5
(1)	Section 81(2)(a), ‘initial impoundment period’— <i>omit, insert</i> — ‘automatic impoundment period’.	6 7 8
(2)	Section 81(2)(b), ‘will’— <i>omit, insert</i> — ‘may’.	9 10 11
<b>Clause 14</b>	<b>Amendment of s 81B (Content of notice for third or subsequent type 2 vehicle related offence)</b>	12 13
(1)	Section 81B(2)(a), ‘initial impoundment period’— <i>omit, insert</i> — ‘automatic impoundment period’.	14 15 16
(2)	Section 81B(2)(b), ‘will’— <i>omit, insert</i> — ‘may’.	17 18 19
<b>Clause 15</b>	<b>Insertion of new ch 4, pt 2, div 5</b>	20
	After section 84— <i>insert</i> —	21 22

<b>‘Division 5</b>	<b>Other provisions relating to motor vehicles impounded for automatic impoundment period</b>	1 2 3
<b>‘Subdivision 1</b>	<b>Preliminary</b>	4
<b>‘84A</b>	<b>Definitions for div 5</b>	5
	‘In this division—	6
	<i>eligible person</i> , for a motor vehicle, means an owner or the usual driver of the motor vehicle.	7 8
	<i>impounded vehicle release notice</i> , for a motor vehicle, means a notice stating—	9 10
	(a) the decision of the commissioner made under this division; and	11 12
	(b) the time and date when the impoundment of the vehicle ends.	13 14
	<i>information notice</i> , for a decision of the commissioner under this division, means a notice stating—	15 16
	(a) the decision; and	17
	(b) the reasons for the decision; and	18
	(c) that the person to whom the notice is given may appeal against the decision within 28 days after the person receives the notice; and	19 20 21
	(d) how the person may appeal against the decision.	22
<b>‘Subdivision 2</b>	<b>Application for release of impounded motor vehicle</b>	23 24
<b>‘84B</b>	<b>Application for release of impounded motor vehicle on basis of severe hardship</b>	25 26
	‘(1) An eligible person may apply to the commissioner for the release of a motor vehicle impounded for an automatic impoundment period under section 74A or 74B on the basis	27 28 29

[s 15]

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that the person would suffer severe hardship if the motor vehicle was not released. 1  
2

- ‘(2) The application must be— 3
- (a) made in the approved form; and 4
  - (b) supported by enough information to enable the commissioner to decide the application. 5  
6

**‘84C Decision on application for release of impounded motor vehicle on basis of severe hardship 7  
8**

- ‘(1) The commissioner must consider an application for the release of a motor vehicle under section 84B after receiving all necessary information relevant to the application and either— 9  
10  
11  
12
- (a) grant the application; or 13
  - (b) refuse to grant the application. 14
- ‘(2) The commissioner must decide the application within 5 business days of receiving the application and other documents required under this subdivision. 15  
16  
17
- ‘(3) The commissioner may grant the application only if the commissioner is satisfied a refusal to grant the application would— 18  
19  
20
- (a) cause severe financial hardship to the applicant or the applicant’s family by depriving the applicant of the applicant’s means of earning a living; or 21  
22  
23
  - (b) cause severe physical hardship to the applicant or the applicant’s family, other than by depriving the applicant of the applicant’s means of earning a living. 24  
25  
26
- ‘(4) For subsection (3)(a), the applicant must give the following to the commissioner— 27  
28
- (a) a statement made by the applicant outlining how a refusal to grant the application would cause severe financial hardship to the applicant or the applicant’s family; 29  
30  
31  
32

(b)	if the applicant is not self-employed—a statement made by the applicant’s employer confirming the applicant would be deprived of the applicant’s means of earning a living if the application is refused.	1 2 3 4
‘(5)	For subsection (3)(b), the applicant must give the commissioner a statement made by the applicant that—	5 6
(a)	outlines how a refusal to grant the application would cause severe physical hardship to the applicant or the applicant’s family; and	7 8 9
(b)	has attached to it statutory declarations from persons other than the applicant, other documentary evidence, or certified copies of documentary evidence, in support of each matter stated in the statement.	10 11 12 13
	<i>Examples of documentary evidence—</i>	14
	roster sheet, letter from an employer	15
‘(6)	If the commissioner decides to grant the application, the commissioner must give the applicant an impounded vehicle release notice for the motor vehicle.	16 17 18
‘(7)	If the commissioner decides to refuse to grant the application, the commissioner must as soon as practicable give the applicant an information notice for the decision.	19 20 21
‘(8)	In this section—	22
	<i>certified copy</i> , of documentary evidence, means certified by a justice of the peace or commissioner for declarations in writing to be a true copy of the documentary evidence.	23 24 25
<b>‘84D</b>	<b>Application for release of impounded motor vehicle on basis prescribed offence happened without owner’s knowledge and consent</b>	26 27 28
‘(1)	The owner of a motor vehicle impounded for an automatic impoundment period under section 74A or 74B may apply to the commissioner for the release of the motor vehicle on the basis that the offence happened without the knowledge and consent of the person.	29 30 31 32 33
‘(2)	The application must be—	34

[s 15]

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- (a) made in the approved form; and 1
- (b) supported by enough information to enable the 2  
commissioner to decide the application. 3

**‘84E Decision on application for release of impounded 4  
motor vehicle on basis prescribed offence happened 5  
without owner’s knowledge and consent 6**

- ‘(1) The commissioner must consider an application for the 7  
release of a motor vehicle under section 84D after receiving 8  
all necessary information relevant to the application and 9  
either— 10
  - (a) grant the application; or 11
  - (b) refuse to grant the application. 12
- ‘(2) The commissioner must decide the application within 5 13  
business days of receiving the application and other 14  
documents required under this subdivision. 15
- ‘(3) The commissioner may grant the application only if the 16  
commissioner is satisfied the relevant prescribed offence 17  
happened without the knowledge and consent of the owner. 18
- ‘(4) If the commissioner decides to grant the application, the 19  
commissioner must give the applicant an impounded vehicle 20  
release notice for the motor vehicle. 21
- ‘(5) If the commissioner decides to refuse to grant the application, 22  
the commissioner must as soon as practicable give the 23  
applicant an information notice for the decision. 24
- ‘(6) In this section— 25
  - relevant prescribed offence* means the prescribed offence 26  
because of which the impoundment has happened. 27

**‘84F Impoundment ends if application for release of motor 28  
vehicle granted 29**

- ‘If the commissioner grants an application for the release of a 30  
motor vehicle under this division, the impoundment of the 31  
motor vehicle under section 74A or 74B ends. 32

<b>‘Subdivision 3</b>	<b>Appeals</b>	1
<b>‘84G</b>	<b>Who may appeal</b>	2
	‘A person who is aggrieved by a decision of the commissioner, under section 84C or 84E, to refuse to grant an application for the release of a motor vehicle may appeal against the decision.	3 4 5 6
<b>‘84H</b>	<b>How to start appeal</b>	7
	‘(1) The appeal is started by filing a notice of appeal with the clerk of a Magistrates Court.	8 9
	‘(2) The appellant must serve a copy of the notice on—	10
	(a) the other persons entitled to appeal against the decision; and	11 12
	(b) the commissioner.	13
	‘(3) Despite subsection (2), the clerk of the court may ask the commissioner to serve a copy of the notice on the persons mentioned in subsection (2)(a).	14 15 16
	‘(4) The notice of appeal must be filed within 28 days after the person is given an information notice for the decision.	17 18
	‘(5) The court may at any time extend the period for filing the notice of appeal.	19
	‘(6) The notice of appeal must state fully the grounds of the appeal and the facts relied on.	21 22
<b>‘84I</b>	<b>Effect of appeal on decision</b>	23
	‘(1) The start of an appeal against a decision of the commissioner does not affect the operation of the decision or prevent the taking of action to implement the decision.	24 25 26
	‘(2) However, the court may make an order staying the operation of the decision being appealed against until the appeal is finally decided.	27 28 29

[s 16]

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‘(3) The court may act under subsection (2) on the application of the appellant or on its own initiative. 1  
2

**‘84J Commissioner has right of appearance 3**

‘The commissioner has a right to appear and be heard before the court on an appeal under this subdivision. 4  
5

**‘84K Hearing procedures 6**

‘(1) An appeal must be decided on the evidence before the commissioner. 7  
8

‘(2) However, the court may order that the appeal be heard afresh, in whole or part. 9  
10

**‘84L Powers of Magistrates Court 11**

‘In deciding an appeal, the court may— 12  
(a) confirm the decision appealed against; or 13  
(b) set aside the decision and substitute another decision that it considers appropriate.’. 14  
15

**Clause 16 Amendment of s 85 (Application for impounding order for type 1 vehicle related offence) 16  
17**

Section 85(2)— 18  
*omit, insert—* 19

‘(2) Within 7 days after charging the person with the initiating impoundment offence, a police officer may 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*).’ 20  
21  
22  
23  
24

**Clause 17 Amendment of s 85A (Application for impounding order for type 2 vehicle related offence) 25  
26**

(1) Section 85A(1), notes— 27

*omit, insert—* 1

*Note—* 2

For vehicle related offences, the offences do not have to be committed  
using the same vehicle.’. 3  
4

(2) Section 85A(2)— 5

*omit, insert—* 6

‘(2) Within 7 days after charging the person with the initiating  
impoundment offence, a police officer may 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*).’ 7  
8  
9  
10  
11

**Clause 18 Amendment of s 90 (Application for forfeiture order for  
type 1 vehicle related offence)** 12  
13

(1) Section 90(1), after ‘74’— 14

*insert—* 15

‘or 74A’. 16

(2) Section 90(2), ‘48 hours’— 17

*omit, insert—* 18

‘7 days’. 19

**Clause 19 Amendment of s 90A (Application for forfeiture order for  
type 2 vehicle related offence)** 20  
21

(1) Section 90A(1), after ‘74’— 22

*insert—* 23

‘or 74B’. 24

(2) Section 90A(1), notes— 25

*omit, insert—* 26

*Note—* 27

For type 2 vehicle related offences, the offences do not have to be  
committed using the same vehicle.’. 28  
29

(3) Section 90A(2), ‘48 hours’— 30

[s 20]

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*omit, insert—* 1

‘7 days’. 2

**Clause 20 Amendment of s 99A (Consideration of application for impounding order—type 2 vehicle related offence)** 3  
4

Section 99A(1), notes— 5

*omit, insert—* 6

‘Note— 7

Section 110 makes provision for enforcing the order.’. 8

**Clause 21 Amendment of s 102 (Community service instead of impounding or forfeiture order)** 9  
10

(1) Section 102(1), ‘This section’— 11

*omit, insert—* 12

‘Subsection (2)’. 13

(2) Section 102— 14

*insert—* 15

‘(4) Subsection (5) applies if— 16

(a) in a proceeding for an impounding order or a forfeiture order in relation to an impounded motor vehicle, an owner of a motor vehicle has a defence under section 107; and 17  
18  
19  
20

(b) the driver to whom the application relates was not the owner of the impounded motor vehicle. 21  
22

‘(5) The court may order the driver to perform not more than 240 hours community service.’. 23  
24

**Clause 22 Amendment of s 108 (Counting the occasions—general)** 25

Section 108(1), note— 26

*omit, insert—* 27

*Note—*

Applications may be made for type 1 vehicle related offences of any kind or type 2 vehicle related offences of any kind, but not a combination of type 1 and type 2 vehicle related offences.’.

**Clause 23 Amendment of s 108A (References to previous occasions in ss 81, 81B, 84, 85, 85A, 90, 90A and 91)**

Section 108A, note—

*omit.*

**Clause 24 Amendment of s 108B (Matters for decisions under ss 85, 85A, 87, 87A, 90–93 and 96–99B and 101)**

Section 108B(1), note—

*omit, insert—*

*Note—*

Applications may be made for type 1 vehicle related offences of any kind or type 2 vehicle related offences of any kind, but not a combination of type 1 and type 2 vehicle related offences.’.

**Clause 25 Amendment of s 116 (Release of motor vehicle impounded under s 74)**

Section 116, heading, ‘s 74’—

*omit, insert—*

‘ss 74, 74A or 74B’.

**Clause 26 Amendment of s 117 (Release of motor vehicle if driver found not guilty etc.)**

Section 117—

*insert—*

‘(2) A reference in subsection (1) to a finding of not guilty for a prescribed offence includes, for an offence that is a type 2 vehicle related offence for which an infringement notice has been served under section 71A, the withdrawal of an

[s 27]

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infringement notice under the *State Penalties Enforcement Act 1999*.’. 1  
2

**Clause 27 Insertion of new ch 24, pt 13** 3

After section 869— 4

*insert—* 5

**‘Part 13 Transitional provisions for** 6  
**Police Powers and** 7  
**Responsibilities (Motor Vehicle** 8  
**Impoundment) Amendment Act** 9  
**2011** 10

**‘870 Definitions for pt 13** 11

‘In this part— 12

*amendment Act* means the *Police Powers and Responsibilities (Motor Vehicle Impoundment) Amendment Act 2011*. 13  
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*commencement* means the commencement of the amendment Act. 15  
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*post-amended Act* means this Act as in force from the commencement. 17  
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*relevant period* means, if a person has been charged with, or found guilty of, having committed a type 2 vehicle related offence before the commencement, the period of not more than 3 years before a type 2 vehicle related offence that the person is charged with having committed after the commencement. 19  
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**‘871 Different kinds of type 2 vehicle related offences committed before and after commencement** 25  
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‘(1) This section applies if— 27

(a) before the commencement, and within the relevant period, the driver of a motor vehicle— 28  
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- 
- (i) has been charged with having committed a type 2 vehicle related offence on at least 1 previous occasion and the charge has not been decided; or
  - (ii) has been charged with having committed type 2 vehicle related offences of different kinds on 2 or more previous occasions and the charges have not been decided; or
  - (iii) has been found guilty of a type 2 vehicle related offence committed on 1 previous occasion; or
  - (iv) has been found guilty of type 2 vehicle related offences of different kinds committed on 2 or more previous occasions; or
  - (v) has been found guilty of having committed a type 2 vehicle related offence on at least 1 previous occasion and has been charged with having committed a different kind of type 2 vehicle related offence on at least 1 previous occasion and the charge has not been decided; and
- (b) after the commencement, the driver is charged with having committed a type 2 vehicle related offence of a different kind from a type 2 vehicle related offence mentioned in paragraph (a).
- ‘(2) A police officer may not impound a motor vehicle under section 74 or 74B of the post-amended Act on the basis that the driver has been charged with, or found guilty of, having committed a type 2 vehicle related offence mentioned in subsection (1)(a).
- ‘(3) A police officer may not apply to a court for an order for the impoundment of a vehicle under section 85A on the basis that the driver has been charged with, or found guilty of, having committed a type 2 vehicle related offence mentioned in subsection (1)(a).
- ‘(4) A police officer may not apply to a court for an order for the forfeiture of a vehicle under section 90A on the basis that the driver has been charged with, or found guilty of, having committed a type 2 vehicle related offence mentioned in subsection (1)(a).

[s 27]

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‘(5) For this section, a type 2 vehicle related offence is of a different kind from another type 2 vehicle related offence if each offence is described in a different paragraph of the definition *type 2 vehicle related offence* in section 69A(2).

**‘872 Type 2 vehicle related offences of same kind committed before and after commencement**

- ‘(1) This section applies if—
- (a) before the commencement, and within the relevant period, the driver of a motor vehicle—
    - (i) has been charged with having committed a type 2 vehicle related offence on at least 1 previous occasion and the charge has not been decided; or
    - (ii) has been charged with having committed a type 2 vehicle related offence of the same kind on 2 or more previous occasions and the charges have not been decided; or
    - (iii) has been found guilty of a type 2 vehicle related offence committed on 1 previous occasion; or
    - (iv) has been found guilty of type 2 vehicle related offences of the same kind committed on 2 or more previous occasions; or
    - (v) has been found guilty of having committed a type 2 vehicle related offence on at least 1 previous occasion and has been charged with having committed a type 2 vehicle related offence of the same kind on at least 1 previous occasion and the charge has not been decided; and
  - (b) after the commencement, the driver is charged with having committed a type 2 vehicle related offence of the same kind as a type 2 vehicle related offence mentioned in paragraph (a).
- ‘(2) To remove any doubt, it is declared that the provisions of the post-amended Act about the impoundment and forfeiture of a vehicle apply in relation to the type 2 vehicle related offences committed before and after the commencement.

‘(3) For this section, a type 2 vehicle related offence is of 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 *type 2 vehicle related offence* in section 69A(2).

**‘873 Particular offence against Road Use Management Act committed before commencement**

‘To remove any doubt, it is declared that if, before the commencement, an offence mentioned in section 69A(2)(f) of the post-amended Act is committed, chapter 4 of the post-amended Act does not apply in relation to the offence.’.

**Clause 28 Amendment of sch 6 (Dictionary)**

(1) Schedule 6, definition *found guilty*—  
*omit.*

(2) Schedule 6—  
*insert—*

*‘automatic impoundment period*, for chapter 4, see section 69.

*eligible person*, for chapter 4, part 2, division 5, see section 84A.

*found guilty*, of an offence, means—

(a) for a type 2 vehicle related offence for which an infringement notice has been served under section 71A—there is payment of a penalty, in full or by instalments, under the *State Penalties Enforcement Act 1999*; or

(b) otherwise—there is a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

*impounded vehicle release notice*, for chapter 4, part 2, division 5, see section 84A.

[s 28]

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*information notice*, for chapter 4, part 2, division 5, see  
section 84A.’.

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<b>Schedule</b>	<b>Minor amendments of Police Powers and Responsibilities Act 2000</b>	1 2 3
	section 3	4
<b>1</b>	<b>Section 69A(1), notes, ‘Transport Operations (Road Use Management—Road Rules) Regulation 1999, section 291(1)(b)’—</b> <i>omit, insert—</i> <i>‘Transport Operations (Road Use Management—Road Rules) Regulation 2009, section 291(1)(b)’.</i>	5 6 7 8 9 10
<b>2</b>	<b>Section 69A(4), after ‘section 80’—</b> <i>insert—</i> <i>‘of the Road Use Management Act’.</i>	11 12 13
<b>3</b>	<b>Section 108B, heading, ‘and 96–99B’—</b> <i>omit, insert—</i> <i>‘, 96–99B’.</i>	14 15 16
<b>4</b>	<b>Section 108B(1), example, ‘subsection (1)’—</b> <i>omit, insert—</i> <i>‘this subsection’.</i>	17 18 19