



Queensland

Police Powers and Responsibilities and Other Legislation Amendment Bill 2006



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Police Powers and Responsibilities and Other Legislation Amendment Bill 2006

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2006

A Bill

for

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

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The Parliament of Queensland enacts—

1

Part 1 Preliminary

2

Clause 1 Short title

3

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

4

5

Clause 2 Commencement

6

(1) Parts 2 and 5 commence on 1 July 2007.

7

(2) Part 6 commences immediately after the commencement of
the *Maritime and Other Legislation Amendment Act 2006*,
section 141.

8

9

10

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

11

12

Clause 3 Act amended in pt 2

13

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

14

15

Clause 4 Amendment of s 69 (Definitions for ch 4)

16

(1) Section 69, definitions *forfeiture order*, *impounding order*,
relevant period and *vehicle related offence*—

17

18

omit.

19

(2) Section 69—

20

insert—

21

‘forfeiture order’—

22

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- (a) for a type 1 vehicle related offence—see section 90(2); 1
or 2
- (b) for a type 2 vehicle related offence—see section 90A(2); 3
or 4
- (c) for a motorbike noise order offence—see section 91(2). 5
- impounding order—*** 6
 - (a) for a type 1 vehicle related offence—see section 85(2); 7
or 8
 - (b) for a type 2 vehicle related offence—see section 85A(2); 9
or 10
 - (c) for a motorbike noise order offence—see section 86(2). 11
- relevant period—*** 12
 - (a) in relation to a motor vehicle impounded for a type 1 13
vehicle related offence—means the period of not more 14
than 3 years before the initiating impoundment for the 15
motor vehicle; or 16
 - (b) in relation to a motor vehicle impounded for a type 2 17
vehicle related offence committed after the 18
commencement of the *Police Powers and* 19
Responsibilities and Other Legislation Amendment Act 20
2006, section 5—means the period, after the 21
commencement, of not more than 3 years before the 22
initiating impoundment for the motor vehicle. 23
- type 1 vehicle related offence*** see section 69A. 24
- type 2 vehicle related offence*** see section 69A. 25
- vehicle related offence*** means— 26
 - (a) a type 1 vehicle related offence; or 27
 - (b) a type 2 vehicle related offence.’. 28
- (3) Section 69, definition *initial impoundment period*, paragraph 29
(b), after ‘next occurring’— 30
- insert—*** 31
- ‘on a business day’. 32

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

Clause 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;

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- (b) an offence against the Road Use Management Act, section 78(1); 1
2
- (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; 3
4
5
6
7
- (d) an offence against the Road Use Management Act, section 80(5A), (11) or (22D); 8
9
- (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— 10
11
12
 - (i) a defect notice has been issued under this Act or the Road Use Management Act in relation to the motor vehicle; and 13
14
15
 - (ii) under the notice, the motor vehicle must be inspected by an authorised officer under that Act to ensure it complies with that Act. 16
17
18
- ‘(3) For subsection (2)(e), a regulation may only prescribe an offence that involves— 19
20
 - (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 21
22
23
24
 - (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.’. 25
26
27

- Clause 6 Insertion of new section 70A** 28
- After section 70— 29
- insert—* 30
- ‘70A References to type 2 vehicle related offences including the same kind** 31
32
- ‘(1) This section applies when a provision of this chapter refers to a type 2 vehicle related offence in relation to another type 2 33
34

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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).’.

Clause 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

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- ‘(3) A regulation may extend the application of this chapter for subsection (1) to another police region or the whole State. 1
2
- ‘(4) Also, a regulation may declare the boundaries of police regions, to which this chapter applies, for subsection (1). 3
4
- ‘(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.’. 5
6
7
8

- Clause 8 Amendment of s 74 (Impounding motor vehicles) 9**
- (1) Section 74(1), ‘a vehicle related’— 10
omit, insert— 11
‘a type 1 vehicle related’. 12
- (2) Section 74(3), ‘or (2)’— 13
omit, insert— 14
‘, (2) or (3)’. 15
- (3) Section 74(2) and (3), as amended— 16
renumber as section 74(3) and (4). 17
- (4) Section 74— 18
insert— 19
- ‘(2) Also, a police officer may impound a motor vehicle if the driver of the motor vehicle— 20
21
- (a) is charged with having committed a type 2 vehicle related offence in relation to the motor vehicle; and 22
23
- (b) has, within the relevant period, been charged with, or found guilty of, another type 2 vehicle related offence.’. 24
25

- Clause 9 Amendment of s 75 (Particular powers for impounding motor vehicles) 26
27**
- Section 75(2), ‘motorbike’— 28
omit, insert— 29
‘motor vehicle’. 30

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Clause 10	Amendment of s 78 (Impounding notice for vehicle related offence)	1 2
	(1) Section 78(4)—	3
	<i>omit, insert—</i>	4
	‘(4) The impounding notice must include—	5
	(a) if the motor vehicle is impounded for a type 1 vehicle related offence—the information required under section 80 or 81; or	6 7 8
	(b) if the motor vehicle is impounded for a type 2 vehicle related offence—the information required under section 81A or 81B.’.	9 10 11
	(2) Section 78(7)—	12
	<i>omit, insert—</i>	13
	‘(7) An impounding notice given to a driver under subsection (2)(a) must be given personally to the driver.	14 15
	‘(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.’.	16 17 18 19 20 21
Clause 11	Amendment of s 79 (Impounding notice for motorbike noise direction offence or motorbike noise order offence)	22 23
	Section 79(8)—	24
	<i>omit, insert—</i>	25
	‘(8) An impounding notice given to a driver under subsection (2)(a) must be given personally to the driver.	26 27
	‘(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.’.	28 29 30 31 32 33

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Clause 12	Amendment of ch 4, pt 2, div 2 hdg (Notice requirements for motor vehicles impounded for vehicle related offences)	1 2 3
	Chapter 4, part 2, division 2, heading, after ‘impounded for’—	4
	<i>insert—</i>	5
	‘type 1’.	6
Clause 13	Amendment of s 80 (Content of notice for first vehicle related offence)	7 8
	(1) Section 80, heading, after ‘first’—	9
	<i>insert—</i>	10
	‘type 1’.	11
	(2) Section 80(1), ‘vehicle related’—	12
	<i>omit, insert—</i>	13
	‘type 1 vehicle related’.	14
Clause 14	Amendment of s 81 (Content of notice for second or subsequent vehicle related offence)	15 16
	(1) Section 81, heading, after ‘subsequent’—	17
	<i>insert—</i>	18
	‘type 1’.	19
	(2) Section 81(1), ‘vehicle related’—	20
	<i>omit, insert—</i>	21
	‘type 1 vehicle related’.	22
	(3) Section 81(2)(b), ‘vehicle related’—	23
	<i>omit, insert—</i>	24
	‘type 1 vehicle related’.	25
	(4) Section 81(2)(c), ‘vehicle related’—	26
	<i>omit, insert—</i>	27
	‘type 1 vehicle related’.	28

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Clause 15	Insertion of new ch 4, pt 2, div 2A	1
	Chapter 4, part 2—	2
	<i>insert—</i>	3
‘Division 2A	Notice requirements for motor vehicles impounded for type 2 vehicle related offences	4
		5
		6
‘81A	Content of notice for motor vehicle impounded for second type 2 vehicle related offence	7
		8
	‘(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.	9
		10
		11
	‘(2) The impounding notice must state—	12
	(a) that the motor vehicle is impounded for the initial impoundment period; and	13
		14
	(b) the prescribed impoundment information.	15
‘81B	Content of notice for third or subsequent type 2 vehicle related offence	16
		17
	‘(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—	18
		19
		20
		21
	(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	22
		23
		24
		25
		26
	(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	27
		28
		29
		30
	(c) the driver of the motor vehicle has previously been found guilty of having committed a type 2 vehicle	31
		32

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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;

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- (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; 1
2
3
4
- (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; 5
6
7
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11
12
- (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 13
14
15
16
17
18
19
20
- (d) the prescribed impoundment information.’. 21

- Clause 16 Amendment of s 85 (Application for impounding order for vehicle related offence)** 22
23
- (1) Section 85, heading, after ‘order for’— 24
insert— 25
‘type 1’. 26
 - (2) Section 85(1), other than the note, ‘vehicle related’— 27
omit, insert— 28
‘type 1 vehicle related’. 29
 - (3) Section 85(3), ‘vehicle related’— 30
omit, insert— 31
‘type 1 vehicle related’. 32

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Clause 17	Insertion of new s 85A	1
	After section 85—	2
	<i>insert—</i>	3
'85A	Application for impounding order for type 2 vehicle related offence	4
		5
	'(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—	6
		7
		8
	(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	9
		10
		11
		12
		13
	(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	14
		15
		16
		17
	(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.	18
		19
		20
		21
		22
		23
		24
		25
	<i>Notes—</i>	26
	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.	27
		28
		29
	For vehicle related offences, the offences do not have to be committed using the same vehicle.	30
		31
	'(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 (<i>impounding order</i>).	32
		33
		34
		35
		36

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- ‘(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.’.

**Clause 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’.

Clause 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—

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- (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.’.

- Clause 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’.

- Clause 21 Insertion of new section 90A**
- After section 90—

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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.

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- ‘(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. 1
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- ‘(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. 4
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- ‘(6) If the application is properly made to a magistrate under section 800, the magistrate must— 8
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- (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 10
11
12
- (b) give a copy of the application and the order to the clerk of the court of the relevant court.’. 13
14

**Clause 22 Amendment of s 92 (Orders on application for forfeiture order if vehicle related offence not decided) 15
16**

Section 92, ‘vehicle related’— 17

omit, insert— 18

‘type 1 vehicle related’. 19

Clause 23 Insertion of new s 92A 20

After section 92— 21

insert— 22

**‘92A Orders on application for forfeiture order if type 2 vehicle related offence not decided 23
24**

‘(1) This section applies if— 25

(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 26
27
28

(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. 29
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- ‘(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. 1
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- ‘(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.’. 8
9
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Clause 24 Amendment of s 96 (When application to be heard—vehicle related offence) 14
15

- (1) Section 96, ‘vehicle related’— 16
omit, insert— 17
‘type 1 vehicle related’. 18
- (2) Section 96(4), ‘divisions 2 and 3’— 19
omit, insert— 20
‘division 2’. 21

Clause 25 Insertion of new s 96A 22
After section 96— 23
insert— 24

‘96A When application to be heard—type 2 vehicle related offence 25
26

- ‘(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. 27
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- ‘(2) An application for a forfeiture order in relation to a vehicle related offence must be heard and decided as soon as 32
33

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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.’.

- Clause 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’.
- Clause 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’.
- Clause 28 Amendment of s 98 (Consideration of application for impounding order)**
- (1) Section 98, heading, after ‘order’—

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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.’.

Clause 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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Clause 30	Insertion of new ch 4, pt 5, div 2A	1
	Chapter 4, part 5—	2
	<i>insert—</i>	3
‘Division 2A	Consideration of application if made for type 2 vehicle related offence	4 5 6
‘99A	Consideration of application for impounding order—type 2 vehicle related offence	7 8
‘(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.	9 10 11 12 13 14
	<i>Notes—</i>	15
	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.	16 17 18
	Also, section 110 makes provision for enforcing the order.	19
‘(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.	20 21 22
‘(3)	Despite subsection (1), the relevant court may—	23
	(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	24 25 26
	(b) order that the motor vehicle be released to the owner.	27
‘(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.	28 29 30 31

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- ‘99B Consideration of application for forfeiture order—type 2 vehicle related offence** 1
2
- ‘(1) On the hearing of an application for a forfeiture order for a 3
type 2 vehicle related offence, the relevant court may order 4
that the motor vehicle be forfeited to the State or impounded 5
for the period, of not more than 3 months, fixed by the court if 6
the driver of the motor vehicle has been found guilty of a type 7
2 vehicle related offence committed on 4 occasions within the 8
prescribed period. 9
- Note—* 10
- Section 110 makes provision for enforcing the order. 11
- ‘(2) If— 12
- (a) under subsection (1), the relevant court orders the 13
impounding of the motor vehicle to which the 14
application relates; and 15
- (b) a relevant court has previously made an impounding 16
order under section 99A for a type 2 vehicle related 17
offence committed within the relevant period and 18
forming the basis of the application; 19
- the motor vehicle is impounded under subsection (1) for the 20
type 2 vehicle related offence giving rise to the application for 21
the forfeiture order and not for a type 2 vehicle related offence 22
to which the impounding order under section 99A relates. 23
- ‘(3) Also, if the driver of the motor vehicle was a child when the 24
last offence was committed, the relevant court must consider 25
whether to make a costs order under section 103. 26
- ‘(4) Despite subsection (1), the relevant court may— 27
- (a) make an order under section 102 for the performance by 28
the driver of the motor vehicle of community service as 29
decided by the court; and 30
- (b) order that the motor vehicle be released to the owner. 31
- ‘(5) Also, if an owner of the motor vehicle raises the defence 32
mentioned in section 107 and the relevant court is satisfied the 33
defence has been made out, the court may order that the motor 34
vehicle be released to the owner. 35

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- ‘(6) On the making of a forfeiture order for a motor vehicle— 1
- (a) the vehicle becomes the property of the State; and 2
- (b) any right of a person to enforce a charge or other 3
security interest registered under the *Motor Vehicles and* 4
Boats Securities Act 1986 against a person other than 5
the State by taking possession of the vehicle is 6
extinguished.’. 7

- Clause 31 Amendment of s 100 (Consideration of application for 8
impounding order) 9**
- Section 100(3)— 10
- omit, insert—* 11
- ‘(3) Despite subsection (1), the relevant court may— 12
- (a) make an order under section 102 for the performance by 13
the driver of the motorbike of community service as 14
decided by the court; and 15
- (b) order that the motorbike be released to the owner.’. 16

- Clause 32 Amendment of s 101 (Consideration of application for 17
forfeiture order) 18**
- Section 101(4)— 19
- omit, insert—* 20
- ‘(4) Despite subsection (1), the relevant court may— 21
- (a) make an order under section 102 for the performance by 22
the driver of the motorbike of community service as 23
decided by the court; and 24
- (b) order that the motorbike be released to the owner.’. 25

- Clause 33 Amendment of s 108 (Counting the occasions) 26**
- (1) Section 108, heading, after ‘occasions’— 27
- insert—* 28
- ‘—general’. 29

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(2) Section 108(1), from ‘81,’ to ‘99’—	1
<i>omit, insert—</i>	2
‘81 to 81B, 84, 85, 85A, 87, 87A, 90, 90A, 92, 92A, 93, 96 to 99B’.	3
	4
(3) Section 108(1)—	5
<i>insert—</i>	6
‘Note—	7
Because of section 70A, applications may only be made for type 1	8
vehicle related offences of any kind or type 2 vehicle related offences of	9
the same kind, not a combination of type 1 and type 2 vehicle related	10
offences or a combination of different kinds of type 2 vehicle related	11
offences.’.	12
(4) Before section 108(3), as a heading—	13
<i>insert—</i>	14
‘108A References to previous occasions in ss 81, 81B, 84, 85,	15
85A, 90, 90A and 91’.	16
(5) Section 108(3), ‘84, 85, 90’—	17
<i>omit, insert—</i>	18
‘81B, 84, 85, 85A, 90, 90A’.	19
(6) Section 108(3)—	20
<i>insert—</i>	21
‘Note—	22
Because of section 70A, applications may only be made for type 2	23
vehicle related offences of the same kind, not a combination of different	24
kinds of type 2 vehicle related offences.’.	25
(7) Section 108(3), as amended—	26
<i>renumber</i> as section 108A.	27
(8) Before section 108(4), as a heading—	28
<i>insert—</i>	29
‘108B Matters for decisions under ss 85, 85A, 87, 87A, 90-93 and	30
96-99B and 101’.	31
(9) Section 108(4), from ‘subsections (1) to (3)’ to ‘99’—	32
<i>omit, insert—</i>	33

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‘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).

- Clause 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.’.

- Clause 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.’.

Clause 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)’.

Clause 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.

Clause 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)’.

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

- (1) Section 116(3) and (4)—

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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)’.

Clause 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.

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- ‘(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. 1
2
3
- ‘(3) For subsection (2), the motor vehicle is taken to have been
forfeited to the State. 4
5
- ‘(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. 6
7
8
9
- ‘(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. 10
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- ‘(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. 13
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- ‘(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.’. 19
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**Clause 41 Amendment of s 800 (Obtaining warrants, orders and
authorities, etc., by telephone or similar facility) 23
24**

Section 800(1), ‘86(6), 90(6)’— 25

omit, insert— 26

‘85A(6), 86(6), 90(6), 90A(6)’. 27

Clause 42 Insertion of new ch 24, pt 9 28

Chapter 24— 29

insert— 30

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‘Part 9	Transitional provisions for	1
	Police Powers and	2
	Responsibilities and Other	3
	Legislation Amendment Act	4
	2006	5
‘862	Costs of impoundment	6
	‘Sections 111 to 116, as in force immediately before 1 July	7
	2007, continue to apply in relation to a motor vehicle	8
	impounded before 1 July 2007 but not released to its owner	9
	before that date as if those sections had not been amended by	10
	the <i>Police Powers and Responsibilities and Other Legislation</i>	11
	<i>Amendment Act 2006</i> .	12
‘863	Existing references	13
	‘(1) This section applies to a notice, order or other document	14
	issued or made under a provision of chapter 4, as in force	15
	immediately before the commencement of this section if—	16
	(a) the provision is amended by the <i>Police Powers and</i>	17
	<i>Responsibilities and Other Legislation Amendment Act</i>	18
	<i>2006</i> ; and	19
	(b) the purpose for issuing the document or making the	20
	order has not ended or the proceeding to which it relates	21
	has not ended before that commencement.	22
	‘(2) A reference in the notice, order or document to a vehicle	23
	related office is taken to be a reference to a type 1 vehicle	24
	related offence.	25
‘864	Amendment of regulation by Police Powers and	26
	Responsibilities and Other Legislation Amendment	27
	Act 2006 does not affect powers of Governor in	28
	Council	29
	‘The amendment of the <i>Police Powers and Responsibilities</i>	30
	<i>Regulation 2000</i> by the <i>Police Powers and Responsibilities</i>	31
	<i>and Other Legislation Amendment Act 2006</i> does not affect	32

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the power of the Governor in Council to further amend the regulation or to repeal it.’. 1
2

Clause 43	Amendment of sch 6 (Dictionary)	3
	Schedule 6—	4
	<i>insert—</i>	5
	‘ <i>costs</i> of removing and keeping a motor vehicle impounded under this Act, means the amounts prescribed under a regulation under the <i>Tow Truck Act 1973</i> , section 43(2)(r) for this Act.	6 7 8 9
	<i>type 1 vehicle related offence</i> see section 69A.	10
	<i>type 2 vehicle related offence</i> see section 69A.’.	11

Part 3	Amendment of Police Powers and Responsibilities Regulation 2000	12 13 14
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Clause 44	Regulation amended in pt 3	15
	This part amends the <i>Police Powers and Responsibilities Regulation 2000</i> .	16 17
Clause 45	Insertion of new s 10B	18
	After section 10A—	19
	<i>insert—</i>	20
‘10B	Declared sections for Act, s 69A, definition <i>type 2 vehicle related offence</i>, paragraph (e)	21 22
	‘Each of the following provisions of the <i>Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999</i> is an offence prescribed for the Act, section 69A, definition <i>type 2 vehicle related offence</i> , paragraph (e)—	23 24 25 26
	(a) section 5(1)(a), (b), (f) and (g);	27

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- | | | |
|--|-------------------|---|
| | (b) section 9; | 1 |
| | (c) section 30.’. | 2 |

Part 4	Amendment of Maritime and Other Legislation Amendment Act 2006	3 4 5
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|------------------|---|--------|
| Clause 46 | Act amended in pt 4 | 6 |
| | This part amends the <i>Maritime and Other Legislation
Amendment Act 2006</i> . | 7
8 |

- | | | |
|------------------|--|----------------------------------|
| Clause 47 | Amendment of s 143 (Insertion of new ss 79B–79D in Act
No. 9 of 1995) | 9
10 |
| | (1) Section 143, inserted section 79B(1)(c), ‘another offence
under section 79(2), (2A), (2B) or (2J)’— | 11
12 |
| | <i>omit, insert—</i> | 13 |
| | ‘a section 79B offence’. | 14 |
| | (2) Section 143, inserted section 79B(1)(d)— | 15 |
| | <i>omit, insert—</i> | 16 |
| | ‘(d) charged under the Criminal Code, section 328A(1) or
(4) with the dangerous operation of a motor vehicle,
when accompanied by the circumstance of aggravation
that at the time of committing the offence the person
was adversely affected by an intoxicating substance and
the following circumstances also applied— | 17
18
19
20
21
22 |
| | (i) the intoxicating substance was alcohol; | 23 |
| | (ii) the person was over the following alcohol limit— | 24 |
| | (A) the general alcohol limit; | 25 |
| | (B) for a person mentioned in section 79(2A),
(2B) or (2J)—the no alcohol limit.’. | 26
27 |

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- (3) Section 143, inserted section 79B(5)— 1
omit, insert— 2
- ‘(5) The suspension or disqualification under subsection (2), (3) or 3
 (4) starts when the person is charged and ends— 4
- (a) for a suspension of a Queensland driver licence in 5
 relation to which a court may make an order under 6
 section 79E, when the first of the following happens— 7
- (i) a replacement licence is issued to the person under 8
 section 79F; 9
- (ii) the charge is dealt with by a court or is withdrawn 10
 or otherwise discontinued; or 11
- (b) in any other case, when the charge is dealt with by a 12
 court or is withdrawn or otherwise discontinued. 13
- Note—* 14
- Section 127 provides for consequences for disqualifications, 15
 suspensions, etc. In particular, see section 127(4) and (5).’ 16
- (4) Section 143, inserted section 79B(7)— 17
insert— 18
- ‘**section 79B offence** means an offence against a provision 19
 mentioned in subsection (1).’ 20

- Clause 48 Amendment of s 144A (Insertion of new ss 90A–90D in 21
 Act No. 9 of 1995) 22**
- (1) Section 144A, inserted section 90A, definition *drink driving 23
 offence*, paragraph (a)(vi), from ‘150AB’ to ‘that 24
 regulation’— 25
- omit, insert—* 26
- ‘79E(4) for failing to comply with an order under section 27
 79E(2).’ 28
- (2) Section 144A, inserted section 90A, definition *relevant 29
 disqualifying provision*, paragraph (e), from ‘150AB’ to ‘the 30
 regulation’— 31
- omit, insert—* 32

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‘79E(4) providing for the disqualification of a person for
failing to comply with an order under section 79E(2)’. 1
2

Clause 49	Omission of s 145 (Insertion of new s 150AB in Act No. 9 of 1995)	3 4
	Section 145—	5
	<i>omit.</i>	6

Part 5	Amendment of Tow Truck Act 1973	7 8
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Clause 50	Act amended in pt 5	9
	This part amends the <i>Tow Truck Act 1973</i> .	10
Clause 51	Amendment of s 38 (Exemptions)	11
	Section 38(2), from ‘or 5’—	12
	<i>omit, insert—</i>	13
	‘, 5 or 22 applies to the person.’.	14
Clause 52	Amendment of s 43 (Regulation making power)	15
	(1) Section 43, heading, ‘Regulation making’—	16
	<i>omit, insert—</i>	17
	‘Regulation-making’.	18
	(2) Section 43(2)(r), from ‘chapter’—	19
	<i>omit, insert—</i>	20
	‘chapter 4 or 22;’.	21

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Part 6	Amendment of Transport Operations (Road Use Management) Act 1995	1 2 3
Clause 53	Act amended in pt 6	4
	This part amends the <i>Transport Operations (Road Use Management Act) 1995</i> .	5 6
Clause 54	Amendment of s 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath)	7 8 9
	Section 79(2J), after ‘licence,’—	10
	<i>insert—</i>	11
	‘or to whom a replacement licence is issued under section 79F.’.	12 13
Clause 55	Insertion of new ss 79E and 79F	14
	After section 79D—	15
	<i>insert—</i>	16
‘79E	Court may allow particular person whose licence is suspended under s 79B to drive	17 18
	‘(1) This section applies to a person—	19
	(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	20 21 22
	(b) who is eligible, and who applies, under a regulation as mentioned in subsection (4).	23 24
	‘(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.	25 26 27 28

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- ‘(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. 1
2
3
- Note—* 4
- 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. 5
6
7
8
- ‘(4) A regulation may provide for matters relating to an order under subsection (2), including, for example, the following— 9
10
- (a) the persons who are eligible, and who are not eligible, to apply for an order; 11
12
 - (b) how and when an application for an order is to be made; 13
 - (c) the criteria to be used in deciding an application for an order; 14
15
 - (d) the types of restrictions the court may or must apply to a licence; 16
17
 - (e) the period for which an order is effective; 18
 - (f) variation of an order; 19
 - (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. 20
21
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- ‘79F Replacement licence if there is an order under s 79E 25**
- ‘(1) This section applies to a person authorised to continue to drive motor vehicles by an order under section 79E (a *section 79E order*). 26
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- ‘(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. 29
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- ‘(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).’.

Clause 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’.

Clause 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’.

Clause 58 Amendment of s 127 (Effect of disqualification)

(1) Section 127(7), from ‘obtains’—

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<i>omit, insert—</i>	1
‘obtains—	2
(a) a restricted licence under an order made under section 87; or	3 4
(b) a replacement licence under section 79F’.	5
(2) Section 127(13), from ‘apply to’—	6
<i>omit, insert—</i>	7
‘apply to either of the following obtained by or issued to any person—	8 9
(a) a restricted licence under an order made under section 87;	10 11
(b) a replacement licence under section 79F’.	12