



Western Australia

Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020

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Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Road Traffic Act 1974</i> amended		
3.	Act amended	3
4.	Part VI heading replaced	3
Part 6 — Unlawful interference with motor vehicles		
5.	Part 6A inserted	3
Part 6A — Immobilisation, towing and detention of motor vehicles		
Division 1 — Preliminary		
91.	Terms used	3
92.	Term used: consent	7
93.	Term used: authorised enforcement action	7
94.	Term used: towing arrangement	8
Division 2 — Immobilisation of motor vehicles		
95.	Motor vehicles not to be immobilised	9
Division 3 — Towing of motor vehicles		
Subdivision 1 — Towing regulated by this Division		
96.	Application of Division	10
Subdivision 2 — Towing		
97.	Towing parked motor vehicles prohibited unless requirements satisfied	11
98.	Regulations relating to towing requirements	13

Contents

99.	Release of motor vehicle that is being loaded onto tow truck	13
100.	Release of motor vehicle that has been loaded onto tow truck	14
101.	Motor vehicle must be towed by most direct route to approved storage yard	15
102.	Copy of towing arrangement must be given	15
103.	Release from storage	16
104.	Approval of storage yards	17
Subdivision 3 — Charges for towing and storage		
105.	Towing charges	17
105A.	Storage charges	18
105B.	Regulations may prohibit or restrict towing and storage charges	18
105C.	Liability for towing and storage charges	18
Division 4 — Detention of motor vehicles		
105D.	Application of Division	19
105E.	Motor vehicles not to be detained	19
Division 5 — Miscellaneous		
105F.	Abolition of distress damage feasant in relation to motor vehicles	20
105G.	Part does not confer right to immobilise, tow or detain motor vehicle	21
105H.	Agreements for prohibited immobilisation, towing and detention services	21
 Part 3 — Road Traffic (Administration) Act 2008 amended		
6.	Act amended	23
7.	Section 4 amended	23
8.	Section 11 amended	23
9.	Section 12 amended	23
10.	Section 22 amended	23
11.	Section 26 amended	24
12.	Section 28 amended	24
13.	Section 38 amended	25
14.	Part 4 Divisions 6A and 6B inserted	26
Division 6A — Powers of inspection and search for RTA Part 6A compliance purposes		
61A.	Inspection of premises	26
61B.	Search of premises	27

	Division 6B — Other directions in relation to RTA	
	Part 6A compliance purposes	
	61C. Direction to produce records, devices or other things	29
	61D. Direction to provide information	30
	61E. Direction to provide reasonable assistance for powers of inspection and search	31
	61F. Directions under this Division	32
15.	Part 4 Division 7 heading amended	32
16.	Section 63 amended	33
17.	Part 4 Division 8 heading amended	33
18.	Section 67 amended	33
19.	Section 68 amended	33
20.	Section 69 amended	34
21.	Part 4 Division 9 heading amended	34
22.	Section 70 amended	34
23.	Section 71 amended	34
24.	Section 74 amended	36
25.	Section 78 amended	37
26.	Section 105 amended	37
27.	Section 133 amended	37



Western Australia

Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020

No. 38 of 2020

An Act to amend the *Road Traffic Act 1974* and the *Road Traffic (Administration) Act 2008* and for related purposes.

[Assented to 10 November 2020]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020*.

2. Commencement

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

(2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends.

Part 2 — Road Traffic Act 1974 amended

3. Act amended

This Part amends the *Road Traffic Act 1974*.

4. Part VI heading replaced

Delete the heading to Part VI and insert:

Part 6 — Unlawful interference with motor vehicles

5. Part 6A inserted

After section 90 insert:

Part 6A — Immobilisation, towing and detention of motor vehicles

Division 1 — Preliminary

91. Terms used

In this Part —

authorised enforcement action has the meaning given in section 93;

business day means a day that is not a Saturday, Sunday or public holiday;

commencement day means the day on which the *Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020* section 5 comes into operation;

consent has the meaning given in section 92;

s. 5

controller, in relation to premises, means a person who is in occupation or control of the premises, or is entitled to be in occupation or control of the premises, whether or not the person owns the premises;

load, in relation to a motor vehicle and a tow truck, means to lift or otherwise move the motor vehicle onto the tow truck, or to secure the motor vehicle to the tow truck, or both, so that the motor vehicle is ready to be removed by the tow truck;

on-site release charge has the meaning given in section 100(2);

parked, in relation to a motor vehicle, means parked, stood or left at premises;

parking agreement —

- (a) means an agreement, however formed, for the terms and conditions on which a motor vehicle may be parked at premises; but
- (b) does not include an agreement that deals with parking only as a matter that is ancillary or incidental to the main purpose of the agreement;

parking facility means a facility for the parking of motor vehicles where entry to, or exit from, the facility is controlled by permanent infrastructure;

public entity means —

- (a) an agency or organisation, as those terms are defined in the *Public Sector Management Act 1994* section 3(1); or
- (b) a body (whether incorporated or not), or the holder of an office, that is established or continued for a public purpose under a written law; or
- (c) a local government, regional local government or regional subsidiary; or

- (d) a person employed in, authorised by or engaged for the purposes of, a person or body referred to in paragraphs (a) to (c); or
- (e) a person or body, or a person or body in a class of persons or bodies, prescribed by the regulations;

relevant person, for a motor vehicle, means each of the following —

- (a) a person who is entitled to the immediate possession of the vehicle;
- (b) the driver of the vehicle or, in relation to a vehicle that is parked or was parked before it was towed, loaded or partially loaded onto a tow truck, the person who was driving or otherwise in charge of the vehicle when it was parked;

security interest, in a motor vehicle —

- (a) means a security interest (as defined in the *Personal Property Securities Act 2009* (Commonwealth) section 12) in the vehicle; and
- (b) includes a possessory lien or pledge over the vehicle; and
- (c) despite paragraphs (a) and (b), does not include anything referred to in those paragraphs that arises only under a parking agreement or only in connection with a motor vehicle being parked at premises;

security power, in relation to a motor vehicle, means a power over the vehicle that a person is entitled to exercise as the holder of a security interest in the vehicle;

s. 5

storage charges means any charges imposed on a relevant person for a motor vehicle for or in relation to any of the following —

- (a) the storage, release or viewing of the vehicle after it has been towed;
- (b) access to the vehicle after it has been towed;
- (c) access to personal property that is or was in the vehicle after it has been towed;

storage yard means premises used for storing motor vehicles that have been towed;

tow includes to —

- (a) carry; and
- (b) lift and tow; and
- (c) lift and carry; and
- (d) lift for the purpose of towing;

towing arrangement has the meaning given in section 94;

towing charges means any charges, other than storage charges, imposed on a relevant person for a motor vehicle for or in relation to towing the vehicle including, without limitation, charges for any of the following —

- (a) anything done in preparation for towing the vehicle, including travelling to premises and taking steps to find a relevant person for the vehicle;
- (b) loading the vehicle onto a tow truck;
- (c) towing the vehicle;

towing service provider has the meaning given in section 94;

tow truck means a motor vehicle used or intended to be used to tow another motor vehicle;

tow truck driver means a person who drives a tow truck for the purpose of towing motor vehicles.

92. Term used: consent

- (1) A motor vehicle is immobilised, towed or detained with the ***consent*** of a relevant person for the vehicle if, prior to the immobilisation, towing or detention occurring —
 - (a) a relevant person or a person who appears to be a relevant person gives express consent to the immobilisation, towing or detention; or
 - (b) a relevant person or a person who appears to be a relevant person enters into an agreement (other than a parking agreement) under which the immobilisation, towing or detention is expressly or impliedly authorised.
- (2) For the purposes of subsection (1)(a), the express consent of the relevant person or the person who appears to be a relevant person must —
 - (a) be given by express words; and
 - (b) relate to the particular occurrence of immobilisation, towing or detention, rather than being a general consent to immobilisation, towing or detention or to immobilisation, towing or detention in specified circumstances.

93. Term used: authorised enforcement action

A motor vehicle is immobilised, towed or detained in the exercise of ***authorised enforcement action*** if the immobilisation, towing or detention is done —

- (a) by a police officer exercising a function of the officer or by a person assisting a police officer in the exercise of a function of the officer; or

s. 5

- (b) under and in accordance with an enforcement warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; or
- (c) under and in accordance with an order or warrant issued by a court; or
- (d) under and in accordance with an Act, or subsidiary legislation, of the Commonwealth.

94. Term used: towing arrangement

- (1) A ***towing arrangement*** is an agreement between a controller of premises and another person (the ***towing service provider***) —
 - (a) by which the controller requests or permits the towing of 1 or more motor vehicles parked at the premises by the towing service provider or a tow truck driver authorised by the towing service provider; and
 - (b) that —
 - (i) meets the requirements of subsection (2); or
 - (ii) is approved, or in a class of agreements approved, under subsection (3).
- (2) For the purposes of subsection (1)(b)(i), the agreement must —
 - (a) be in the form approved by the CEO; and
 - (b) be signed by or on behalf of the controller; and
 - (c) provide for a call-out charge to be paid by the controller in the event that a tow truck driver is called to the premises to tow a vehicle but the vehicle is not towed and no on-site release charge is paid.

- (3) The CEO may, in writing, approve for the purposes of subsection (1)(b)(ii) an agreement, or a class of agreements, made before commencement day in relation to towing.
- (4) A towing arrangement may relate to 1 or more specified vehicles or may be a general arrangement requesting or permitting the towing of vehicles parked at the premises in circumstances set out in the arrangement.

Division 2 — Immobilisation of motor vehicles

95. Motor vehicles not to be immobilised

- (1) A person must not immobilise a parked motor vehicle by attaching to, or placing near, the vehicle —
 - (a) a wheel clamp; or
 - (b) another device that effectively immobilises the vehicle, including by making it unsafe or impracticable for a person to drive the vehicle.

Penalty for this subsection: a fine of 100 PU.

- (2) Subsection (1) does not apply if the vehicle is immobilised —
 - (a) by, or with the consent of, a relevant person for the vehicle; or
 - (b) in the exercise of authorised enforcement action; or
 - (c) in the exercise of a security power; or
 - (d) by a public entity in the exercise of a function under and in accordance with a written law.

Division 3 — Towing of motor vehicles

Subdivision 1 — Towing regulated by this Division

96. Application of Division

- (1) This Division applies in relation to —
 - (a) the towing of a parked motor vehicle if the towing is at the request of, or otherwise permitted by, a controller of the premises at which the vehicle is parked; and
 - (b) anything done in preparation for towing of the kind referred to in paragraph (a); and
 - (c) the storage and release of a motor vehicle towed or to be towed as referred to in paragraph (a); and
 - (d) charges for or in relation to anything referred to in paragraph (a), (b) or (c).
- (2) This Division does not apply in relation to —
 - (a) the towing of a motor vehicle —
 - (i) away from the site of an accident or breakdown on a road; or
 - (ii) by, or with the consent of, a relevant person for the vehicle; or
 - (iii) in the exercise of authorised enforcement action; or
 - (iv) in the exercise of a security power; or
 - (v) under and in accordance with a written law; or
 - (vi) in circumstances prescribed by the regulations;

or

- (b) anything done in preparation for towing of the kind referred to in paragraph (a); or
 - (c) the storage and release of a motor vehicle towed or to be towed as referred to in paragraph (a); or
 - (d) charges for or in relation to anything referred to in paragraph (a), (b) or (c).
- (3) Subsection (1) is subject to subsection (2).

Subdivision 2 — Towing

97. Towing parked motor vehicles prohibited unless requirements satisfied

- (1) A tow truck driver must not tow a parked motor vehicle from the premises at which it is parked (the *relevant premises*) unless —
- (a) there is a towing arrangement in effect requesting or permitting the tow truck driver to tow the vehicle; and
 - (b) the tow truck driver has notified the CEO, in a manner and form approved by the CEO —
 - (i) that the vehicle is to be towed; and
 - (ii) of the details prescribed by the regulations in relation to the vehicle;
- and
- (c) the tow truck driver has recorded the details prescribed by the regulations in relation to the vehicle in accordance with the requirements of the regulations; and
 - (d) if the regulations require a sign to be displayed at the relevant premises — a sign complying with the requirements of the regulations was displayed at the relevant premises when the vehicle was parked; and

s. 5

- (e) the vehicle has been parked at the relevant premises for a period that is no shorter than the waiting period prescribed by the regulations; and
- (f) either —
 - (i) the tow truck driver cannot, after taking reasonable steps, find a relevant person for the vehicle; or
 - (ii) if a relevant person for the vehicle is found — the relevant person cannot or will not remove the vehicle from the relevant premises, or the tow truck driver reasonably believes that the relevant person cannot or will not remove the vehicle from the relevant premises, within a reasonable time.

Penalty for this subsection: a fine of 100 PU.

- (2) Despite subsection (1), if the vehicle is parked in a position where it is causing a hazard or unreasonable obstruction, the requirements in subsection (1)(d), (e) and (f) do not apply.
- (3) Subsection (1)(f)(i) is taken to be satisfied if the tow truck driver reasonably believes that a controller of the relevant premises has taken reasonable steps to find a relevant person for the vehicle and cannot find a relevant person.
- (4) A controller of premises must not give any information to a tow truck driver in relation to a matter referred to in subsection (1) that the controller knows is false or misleading in a material particular.

Penalty for this subsection: a fine of 100 PU.

98. Regulations relating to towing requirements

- (1) Regulations may make provision for or in relation to the following —
 - (a) the disclosure or publication of information obtained by the CEO under section 97(1)(b);
 - (b) requirements to retain and produce records made in accordance with section 97(1)(c).
- (2) Regulations made for the purposes of section 97(1)(d) may provide —
 - (a) that motor vehicles must not be towed from premises of a prescribed kind unless a sign is displayed; and
 - (b) for requirements that apply to signs referred to in paragraph (a).
- (3) Regulations made for the purposes of section 97(1)(e) may prescribe different waiting periods that apply to motor vehicles parked in different circumstances, including by reference to any sign displayed at the relevant premises.
- (4) For the purposes of section 97(1)(f), regulations may prescribe the steps that a person must take in order to have taken reasonable steps to find a relevant person for a motor vehicle and may prescribe different steps that must be taken in different circumstances.

99. Release of motor vehicle that is being loaded onto tow truck

- (1) This section applies if —
 - (a) the process of loading a motor vehicle that was parked at premises onto a tow truck has begun but has not been completed; and

s. 5

- (b) a relevant person for the vehicle agrees to remove the vehicle from the premises within a reasonable time.

- (2) The tow truck driver for the tow truck must immediately release the vehicle to the relevant person without charge.

Penalty for this subsection: a fine of 100 PU.

100. Release of motor vehicle that has been loaded onto tow truck

- (1) This section applies if —
 - (a) a motor vehicle that was parked at premises (the *relevant premises*) —
 - (i) has been loaded onto a tow truck; but
 - (ii) has not been removed from the relevant premises;

and

- (b) a relevant person for the vehicle is present.

- (2) The tow truck driver for the tow truck must inform the relevant person, before removing the vehicle, that if the relevant person pays an amount (the *on-site release charge*) stated by the tow truck driver, the vehicle will be immediately released.

Penalty for this subsection: a fine of 100 PU.

- (3) If, on being informed under subsection (2), the relevant person pays the tow truck driver the on-site release charge, the tow truck driver must immediately release the vehicle to the relevant person.

Penalty for this subsection: a fine of 100 PU.

- (4) The tow truck driver must not state an amount for an on-site release charge that exceeds the amount determined in accordance with the regulations.

Penalty for this subsection: a fine of 100 PU.

- (5) If a motor vehicle is released under subsection (3), a person must not impose any further towing charges in relation to the vehicle.

Penalty for this subsection: a fine of 100 PU.

101. Motor vehicle must be towed by most direct route to approved storage yard

A tow truck driver who tows a motor vehicle must tow the vehicle by the most direct route, and without taking longer than is reasonably necessary, to the nearest suitable storage yard approved for the tow truck driver under section 104(3).

Penalty: a fine of 40 PU.

102. Copy of towing arrangement must be given

- (1) If a motor vehicle has been towed using a tow truck, or loaded or partially loaded onto a tow truck, a relevant person for the vehicle, or a police officer, may request a copy of the towing arrangement in relation to the towing from any or all of the following —

- (a) the tow truck driver;
- (b) if the tow truck driver is not the towing service provider who is party to the towing arrangement — that towing service provider;
- (c) if the vehicle is or was stored in a storage yard after being towed — the person in charge of the storage yard.

s. 5

- (2) A person to whom a request is made under subsection (1) must, as soon as is practicable but in any event within 5 business days after the day on which the request is made, give the relevant person or police officer a copy of the towing arrangement.

Penalty for this subsection: a fine of 100 PU.

- (3) A request under subsection (1) may be made whether or not the vehicle has been released.

- (4) A towing service provider must, for each towing arrangement to which the towing service provider is a party, ensure that the following persons are given, or have access to, the towing arrangement —

- (a) each tow truck driver requested or permitted to tow motor vehicles under the towing arrangement;
- (b) the person in charge of each storage yard that is approved under section 104(3) for a tow truck driver referred to in paragraph (a).

Penalty for this subsection: a fine of 40 PU.

- (5) Regulations may make provision for or in relation to the disclosure or publication of towing arrangements or the information contained in towing arrangements.

103. Release from storage

- (1) This section applies if a motor vehicle that has been towed is stored in a storage yard.
- (2) If a relevant person for the vehicle asks the person in charge of the storage yard to release the vehicle, the person in charge must release the vehicle as soon as is practicable but in any event no later than 4 hours after the request is made.

Penalty for this subsection: a fine of 100 PU.

- (3) For the purposes of determining when the 4-hour period referred to in subsection (2) expires, only time between 9 am and 5 pm on a business day is to be counted.
- (4) Regulations may prescribe the steps that must be taken to release the vehicle for the purposes of subsection (2).

104. Approval of storage yards

- (1) A person may apply to the CEO for approval of 1 or more storage yards to be used to store vehicles towed by a tow truck driver or class of tow truck drivers.
- (2) The application must —
 - (a) be in the form approved by the CEO; and
 - (b) be accompanied by the fee (if any) prescribed by the regulations; and
 - (c) comply with any other requirements prescribed by the regulations.
- (3) The CEO may, by written notice, grant or refuse to grant the approval.
- (4) Regulations may prescribe matters that the CEO must consider when granting or refusing to grant an approval under subsection (3).

Subdivision 3 — Charges for towing and storage

105. Towing charges

- (1) A person commits an offence if the total amount of towing charges imposed by the person for or in relation to the towing of a motor vehicle exceeds the amount (the ***maximum towing charges amount***) determined in accordance with the regulations.

Penalty for this subsection: a fine of 40 PU.

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- (2) Regulations made for the purposes of subsection (1) may provide for different maximum towing charges amounts that apply in different circumstances, including by reference to the amount of work undertaken or distance travelled.

105A. Storage charges

- (1) A person commits an offence if the total amount of storage charges imposed by the person in relation to a motor vehicle that has been towed exceeds the amount (the *maximum storage charges amount*) determined in accordance with the regulations.

Penalty for this subsection: a fine of 40 PU.

- (2) Regulations made for the purposes of subsection (1) may provide for different maximum storage charges amounts that apply in different circumstances.

105B. Regulations may prohibit or restrict towing and storage charges

Without limiting sections 105 and 105A, the regulations may make provision for or in relation to the imposition of towing charges and storage charges, including by —

- (a) prohibiting the imposition of towing charges and storage charges of prescribed kinds or in prescribed circumstances; and
- (b) providing for requirements that must be complied with before towing charges and storage charges of prescribed kinds may be imposed.

105C. Liability for towing and storage charges

- (1) This section applies if a motor vehicle has been towed in compliance with the requirements of this Division.

- (2) A relevant person for the vehicle is liable for the payment of towing charges and storage charges imposed in relation to the vehicle in compliance with the requirements of this Division and the regulations.
- (3) If a relevant person who pays an amount referred to in subsection (2) was not driving or otherwise in charge of the vehicle when the vehicle was parked before it was towed, the person driving or otherwise in charge of the vehicle is liable to that relevant person for the amount paid by that relevant person.
- (4) If a person (the *debtor*) does not pay an amount required by this section, the person entitled to be paid may recover the amount in a court of competent jurisdiction as a debt due from the debtor.

Division 4 — Detention of motor vehicles

105D. Application of Division

This Division does not apply to the detention of a motor vehicle —

- (a) by immobilising it as described in section 95(1); or
- (b) after it has been towed.

105E. Motor vehicles not to be detained

- (1) A person must not detain a parked motor vehicle by —
 - (a) failing to release the vehicle on demand to a relevant person for the vehicle; or
 - (b) refusing to release the vehicle unless a relevant person for the vehicle makes any payment for or in relation to the release.

Penalty for this subsection: a fine of 100 PU.

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- (2) Subsection (1) does not apply if the vehicle is detained —
- (a) by, or with the consent of, a relevant person for the vehicle; or
 - (b) in the exercise of authorised enforcement action; or
 - (c) in the exercise of a security power; or
 - (d) under and in accordance with a written law; or
 - (e) in the exercise of a right under a parking agreement, where —
 - (i) the vehicle is parked in a parking facility; and
 - (ii) the means of detention is the permanent infrastructure controlling entry to, or exit from, the parking facility; and
 - (iii) under the parking agreement, the payment of a fee is a condition of the vehicle being allowed to leave the parking facility;
- or
- (f) in circumstances prescribed by the regulations.

Division 5 — Miscellaneous

105F. Abolition of distress damage feasant in relation to motor vehicles

The common law remedy of distress damage feasant in relation to trespass on land by a motor vehicle is abolished to the extent that it is inconsistent with this Part.

105G. Part does not confer right to immobilise, tow or detain motor vehicle

Nothing in this Part gives any person a right to immobilise, tow or detain a motor vehicle if the person does not have that right apart from this Part.

105H. Agreements for prohibited immobilisation, towing and detention services

- (1) In this section —
provide a prohibited service means to immobilise, tow or detain a motor vehicle in contravention of this Part.
- (2) An agreement, whether entered into before, on or after commencement day, is of no legal effect to the extent to which it authorises or permits, or purports to authorise or permit, a person to provide a prohibited service.
- (3) A party to an agreement that is of no legal effect wholly or partly because of subsection (2) —
 - (a) is not entitled to recover any money from any person (including an owner or controller of the premises to which the agreement relates or purports to relate) for or in relation to prohibited services provided, or that were to be provided, under the agreement on or after commencement day; and
 - (b) must repay to the person from whom it was received any money received, whether before, on or after commencement day, for prohibited services provided, or that were to be provided, under the agreement on or after commencement day.

s. 5

- (4) If a party does not repay money required by subsection (3)(b) to be repaid, the person entitled to be repaid may recover the money in a court of competent jurisdiction as a debt due from the party.

**Part 3 — *Road Traffic (Administration) Act 2008*
amended**

6. Act amended

This Part amends the *Road Traffic (Administration) Act 2008*.

7. Section 4 amended

In section 4 insert in alphabetical order:

RTA Part 6A compliance purposes has the meaning
given in section 28;

8. Section 11 amended

After section 11(5A)(da) insert:

(db) information obtained by the CEO under the
Road Traffic Act 1974 Part 6A;

9. Section 12 amended

After section 12(2)(e) insert:

(ea) information obtained by the CEO under the
Road Traffic Act 1974 Part 6A;

10. Section 22 amended

(1) In section 22:

(a) delete “The” and insert:

(1) The

s. 11

- (b) delete “law, other than the *Road Traffic Act 1974*,” and insert:

law

- (2) At the end of section 22 insert:

- (2) A reference in subsection (1) to a provision of a road law does not include a provision of the *Road Traffic Act 1974*, other than a provision in Part 6A of that Act or a regulation made for the purposes of Part 6A of that Act.

11. Section 26 amended

In section 26(3) after “purposes” insert:

or RTA Part 6A compliance purposes

12. Section 28 amended

In section 28 insert in alphabetical order:

RTA Part 6A compliance purposes means either or both of the following purposes —

- (a) to find out whether any of the following provisions is being complied with —
- (i) a provision in the *Road Traffic Act 1974* Part 6A;
 - (ii) any regulation made under or for the purposes of a provision mentioned in subparagraph (i);

- (b) to investigate a breach or suspected breach of a provision mentioned in paragraph (a);

RTA Part 6A documentation means any documentation, whether in paper, electronic or any other form, that is directly or indirectly associated with the immobilisation, towing or detention of motor vehicles;

RTA Part 6A offence means an offence under any of the following provisions —

- (a) a provision in the *Road Traffic Act 1974* Part 6A;
- (b) any regulation made under or for the purposes of a provision mentioned in paragraph (a);
- (c) section 44 in relation to a direction under section 39, 40 or 42 if the direction was for the purpose of, or in connection with, exercising a power in relation to a breach or suspected breach of a provision mentioned in paragraph (a) or (b);
- (d) section 61C(4);
- (e) section 61D(2) or (3);
- (f) section 61E(3);
- (g) section 71(5A) or (7A);

13. Section 38 amended

In section 38 in the definition of **vehicle** paragraph (d) delete “5.” and insert:

5 or 6A.

14. Part 4 Divisions 6A and 6B inserted

After section 61 insert:

**Division 6A — Powers of inspection and search for
RTA Part 6A compliance purposes**

61A. Inspection of premises

(1) In this section —

premises means —

- (a) premises at or from which a person carries on business relating to or involving the immobilisation, towing or detention of motor vehicles; or
- (b) premises that are occupied by a person in connection with a business relating to or involving the immobilisation, towing or detention of motor vehicles; or
- (c) premises that are a registered office of a person in connection with a business relating to or involving the immobilisation, towing or detention of motor vehicles; or
- (d) premises where records required to be kept under the *Road Traffic Act 1974* Part 6A (including any regulation made, or requirement imposed, under or for the purposes of that Part) are located or where any such records are required to be located; or
- (e) a storage yard, as defined in the *Road Traffic Act 1974* section 91.

(2) A police officer may inspect premises for RTA Part 6A compliance purposes.

- (3) The power to inspect premises under this section includes —
 - (a) the power to inspect and take copies of or extracts from any records located at the premises (including in any vehicle located at the premises) and required to be kept under the *Road Traffic Act 1974* Part 6A (including any regulation made, or requirement imposed, under or for the purposes of that Part); and
 - (b) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material.
- (4) Section 54(3), (4), (5), (6), (7) and (9) apply to an inspection of premises or exercise of powers under this section as if it were an inspection of premises or exercise of powers under section 54.

61B. Search of premises

- (1) In this section —
premises has the meaning given to that term in section 61A(1) and includes premises where the officer concerned reasonably believes that any RTA Part 6A documentation is located.
- (2) A police officer may search premises for RTA Part 6A compliance purposes.
- (3) A police officer may, for RTA Part 6A compliance purposes, search, or enter and search, any vehicle at premises being searched under this section.
- (4) The power to search premises under this section includes —
 - (a) the power to search for and inspect any records, devices or other things that are located at the premises (including in any vehicle located at

- the premises) that the officer reasonably believes are or contain RTA Part 6A documentation or are relevant to RTA Part 6A compliance purposes; and
- (b) the power to take copies of or extracts from any of the following —
- (i) any RTA Part 6A documentation located at the premises;
 - (ii) any other records, or any readout or other data obtained from any device or thing, located at the premises that the officer reasonably believes provide, or may on further inspection provide, evidence of an RTA Part 6A offence;
- and
- (c) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material.
- (5) During a search of premises under this section a police officer may seize and remove any records, devices or other things from the premises that the officer reasonably believes provide, or may on further inspection provide, evidence of an RTA Part 6A offence.
- (6) Section 55(3), (5), (6), (7), (9) and (11) apply to a search of premises or exercise of powers under this section as if it were a search of premises or exercise of powers under section 55.

Division 6B — Other directions in relation to RTA
Part 6A compliance purposes

61C. Direction to produce records, devices or other things

- (1) A police officer may, for RTA Part 6A compliance purposes, direct a person to produce any of the following —
 - (a) a record required to be kept under the *Road Traffic Act 1974* Part 6A (including any regulation made, or requirement imposed, under or for the purposes of that Part);
 - (b) a record comprising RTA Part 6A documentation in the person's possession or under the person's control;
 - (c) a device or other thing that contains or may contain a record referred to in paragraph (a) or (b), in the person's possession or under the person's control.
- (2) A direction under subsection (1) must —
 - (a) specify —
 - (i) the record, device or other thing to be produced; or
 - (ii) the classes of record, device or other thing to be produced;and
 - (b) state where and to whom the record, device or other thing is to be produced.
- (3) A police officer may do any or all of the following —
 - (a) inspect a record, device or other thing that is produced;

- (b) make copies of, or take extracts from, a record, device or other thing that is produced;
 - (c) seize and remove a record, device or other thing that is produced that the officer reasonably believes may on further inspection provide evidence of an RTA Part 6A offence.
- (4) A person to whom a direction is given under subsection (1) must not, without reasonable excuse, fail to comply with the direction.
Penalty for this subsection: a fine of 50 PU.
- (5) In subsection (4) —
reasonable excuse does not include the excuse that the production of a record, device or other thing that contains or may contain a record might tend to incriminate the person or make the person liable to a penalty.
- (6) Despite subsection (5), a record, device or other thing produced by a person in compliance with a direction under subsection (1) is not admissible in evidence in any proceedings against the person.

61D. Direction to provide information

- (1) A police officer may, for RTA Part 6A compliance purposes, direct a person to provide information to the officer in relation to any matter related to the RTA Part 6A compliance purposes.
- (2) A person to whom a direction is given under subsection (1) must not, without reasonable excuse, fail to comply with the direction.
Penalty for this subsection: a fine of 50 PU.
- (3) A person to whom a direction is given under subsection (1) must not provide information that is

false or misleading in a material particular in purported compliance with the direction.

Penalty for this subsection: a fine of 100 PU.

(4) In subsection (2) —

reasonable excuse —

- (a) includes that the person did not know and could not have been reasonably expected to know or ascertain the required information; but
- (b) does not include the excuse that the required information might tend to incriminate the person or make the person liable to a penalty.

(5) Despite subsection (4), information provided by a person in compliance with a direction under subsection (1) is not admissible in evidence in any proceedings against the person other than a prosecution for an offence under subsection (3).

61E. Direction to provide reasonable assistance for powers of inspection and search

- (1) A police officer may direct a person to provide assistance to the officer to enable the officer to effectively exercise a power under section 61A or 61B.
- (2) A direction under subsection (1) —
 - (a) can be given in relation to a power under section 61A or 61B only while the power can lawfully be exercised; and
 - (b) ceases to have effect when that power is no longer exercisable.
- (3) A person to whom a direction is given under subsection (1) must not, without reasonable excuse, fail to comply with the direction.

Penalty for this subsection: a fine of 50 PU.

s. 15

- (4) In subsection (3) —
reasonable excuse —
- (a) includes —
- (i) that the direction was unreasonable; or
 - (ii) that the direction or its subject matter was outside the scope of the business or other activities of the person;
- but
- (b) does not include the excuse that the assistance may result in information being provided that might tend to incriminate the person or make the person liable to a penalty.
- (5) Despite subsection (4), information that resulted from the assistance provided by a person in compliance with a direction under subsection (1) is not admissible in evidence in any proceedings against the person.

61F. Directions under this Division

Sections 60 and 61 apply to a direction under this Division as if the direction were a direction under Division 6.

15. Part 4 Division 7 heading amended

In the heading to Part 4 Division 7 after “**purposes**” insert:

or RTA Part 6A compliance purposes

16. Section 63 amended

In section 63(3):

- (a) in paragraph (c) after “purposes” insert:

or RTA Part 6A compliance purposes

- (b) in paragraph (d) delete “28,” and insert:

28 or in paragraph (a) of the definition of ***RTA Part 6A compliance purposes*** in section 28,

17. Part 4 Division 8 heading amended

In the heading to Part 4 Division 8 after “**purposes**” insert:

or RTA Part 6A compliance purposes

18. Section 67 amended

In section 67(1) and (2) after “5” insert:

or 6A

19. Section 68 amended

In section 68(1) after “5” insert:

or 6A

s. 20

20. Section 69 amended

In section 69(1)(c) delete “offence.” and insert:

offence or an RTA Part 6A offence.

21. Part 4 Division 9 heading amended

In the heading to Part 4 Division 9 after “**purposes**” insert:

or RTA Part 6A compliance purposes

22. Section 70 amended

In section 70(2) delete “5” and insert:

5, 6, 6A or 6B

23. Section 71 amended

(1) In section 71(1)(a) delete “5; and” and insert:

5, 6, 6A or 6B; and

(2) In section 71(3)(c) delete “(7).” and insert:

(7) or subsections (5A) and (7A), whichever are applicable.

- (3) In section 71(5) delete “A person commits an offence if the person knows that an embargo notice relates to a” and insert:

If an embargo notice (an **MDLR embargo notice**) is issued in relation to a record, device or other thing that a police officer is authorised to seize under Division 5 or 6, a person commits an offence if the person knows that the embargo notice relates to the

- (4) In section 71(5) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

- (5) After section 71(5) insert:

- (5A) If an embargo notice (an **RTA Part 6A embargo notice**) is issued in relation to a record, device or other thing that a police officer is authorised to seize under Division 6A or 6B, a person commits an offence if the person knows that the embargo notice relates to the record, device or other thing and the person —
- (a) does anything that is prohibited by the notice; or
 - (b) instructs another person to do anything that is prohibited by the notice; or
 - (c) instructs another person to do anything that the notice prohibits the first-mentioned person from doing.

Penalty for this subsection: a fine of 100 PU.

s. 24

(6) In section 71(6) after “(5)” insert:

or (5A)

(7) In section 71(7)(a) before “embargo notice” insert:

MDLR

(8) In section 71(7) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

(9) After section 71(7) insert:

(7A) A person commits an offence if —

- (a) an RTA Part 6A embargo notice has been served on the person; and
- (b) the person fails to take reasonable steps to prevent any other person from doing anything forbidden by the notice.

Penalty for this subsection: a fine of 100 PU.

24. Section 74 amended

In section 74(2)(d), (3)(c) and (5)(c) delete “(c),” and insert:

(c) (including under any of those sections as applied by section 61A(4) or 61B(6)),

25. Section 78 amended

In section 78 delete “5 or 6” and insert:

5, 6, 6A or 6B

26. Section 105 amended

- (1) In section 105(1) delete “1974” and insert:

1974, other than an offence under Part 6A of that Act or a regulation made for the purposes of Part 6A of that Act,

- (2) In section 105(2) delete “law other than the *Road Traffic Act 1974*” and insert:

law, other than an offence to which subsection (1) applies,

27. Section 133 amended

- (1) In section 133(1)(g) delete “things.” and insert:

things; or

- (2) After section 133(1)(g) insert:

- (h) of the CEO to grant, or refuse to grant, an approval under the *Road Traffic Act 1974* section 104(3).

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