

79D. Release of impounded vehicle

(1) In this section —

impounded vehicle means a vehicle impounded under section 79(1), 79A(1), 79BB, 79BCB or 79BCE;

service, in relation to a vehicle, includes to clean, examine, improve, inspect, paint, park, repair, store and transport it;

taxi means a vehicle —

- (a) on which taxi plates issued under the *Taxi Act 1994* are being used; or
- (b) in respect of which a taxi-car licence has been issued under the *Transport Co-ordination Act 1966* Part IIIB,

and it does not matter whether or not, at the relevant time, it is standing or plying for hire or carrying passengers for reward;

taxi operator, of a taxi, means a person who —

- (a) under the *Taxi Act 1994*, owns or leases the taxi plates, issued under that Act, that are being used on the taxi; or
- (b) holds the taxi-car licence issued under the *Transport Co-ordination Act 1966* in respect of the taxi;

vehicle service provider means a person who, for reward in the course of a business, services vehicles.

(2) The Commissioner is to ensure that an impounded vehicle is not released before the impounding period ends unless —

- (a) a police officer is satisfied that, at the time that the offence in respect of which the vehicle was impounded was committed, the vehicle was a stolen vehicle or a hired vehicle; or
- (b) a senior police officer is not satisfied as required by section 79C(2)(a); or
- (c) a senior police officer is satisfied that unless the vehicle is released, exceptional hardship will be suffered in the particular case; or
- (d) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle, with the consent of a person lawfully in possession of it, was in the possession of a vehicle service provider for the purposes of being serviced by the vehicle service provider; and
 - (ii) the person who allegedly committed the offence was the vehicle service provider or a person employed by, contracted to or acting with the authority of the vehicle service provider; and
 - (iii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

- (e) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

- (i) the vehicle had been lent by a vehicle service provider to the person who allegedly committed the offence for use while the vehicle service provider was servicing a vehicle for the person; and
- (ii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

- (f) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was for sale; and
 - (ii) the person who allegedly committed the offence (the *alleged offender*) was test-driving the vehicle with the consent of the person selling it for the purpose of deciding whether to buy it; and
 - (iii) the person who consented to the alleged offender test-driving the vehicle had complied with subsection (3); and
 - (iv) the alleged offender was not employed by or contracted to the person selling the vehicle; and
 - (v) the alleged offender was not a responsible person for the vehicle;

or

- (g) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was used primarily in the course of a business conducted by a person (the *business owner*); and
 - (ii) the person who allegedly committed the offence (the *alleged offender*) was an employee or contractor of the business owner; and
 - (iii) the alleged offender was driving the vehicle with the consent of the business owner or an agent of the business owner; and
 - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4); and
 - (v) the alleged offender was not a responsible person for the vehicle;

or

- (h) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was a taxi; and
 - (ii) the person who allegedly committed the offence (the *alleged offender*) was driving the taxi under an agreement between him or her and the taxi operator of the taxi, or an agent of the taxi operator, under which the alleged offender pays the operator or agent in order to be allowed to drive the taxi for reward; and
 - (iii) the taxi operator or agent who entered into the agreement with the alleged offender had complied with subsection (5); and
 - (iv) the alleged offender was not a responsible person for the vehicle;

or

- (i) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

- (i) the vehicle was licensed under the *Transport Co-ordination Act 1966* to be operated as an omnibus; and
 - (ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the holder of that licence; and
 - (iii) the alleged offender was driving the vehicle with the consent of the holder of that licence; and
 - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4); and
 - (v) the alleged offender was not a responsible person for the vehicle;
- or
- (j) a senior police officer is satisfied that —
 - (i) the vehicle cannot be released under any of paragraphs (a) to (i) or under circumstances prescribed under paragraph (k); and
 - (ii) unless the vehicle is released, manifest injustice or manifest unfairness will be suffered by a person other than the alleged offender;
- or
- (k) circumstances prescribed by the regulations exist.
- (3) For the purposes of subsection (2)(f)(iii), a person who consents to a person test-driving a vehicle must —
- (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) inform the driver that he or she must obey the law when test-driving the vehicle.
- (4) For the purposes of subsection (2)(g)(iv) and (i)(iv), a person who consents to an employee or contractor driving a vehicle must —
- (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (5) For the purposes of subsection (2)(h)(iii), a taxi operator or agent who enters into an agreement with a driver must —
- (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (6) For the purposes of subsection (2)(j) none of these factors by itself means manifest injustice or manifest unfairness will be suffered by a person —
- (a) if the offence in respect of which the vehicle was impounded was an impounding offence (driver's licence), the fact that a person responsible for the vehicle concerned had no grounds to suspect the alleged offender was not authorised to drive the vehicle at the time of the offence;

- (b) the fact that, although a responsible person for the vehicle expressly or impliedly authorised the person who allegedly committed the offence in respect of which the vehicle was impounded (the *alleged offender*) to drive the vehicle, the responsible person had no grounds to suspect the alleged offender would drive in a manner that contravened this Act.
- (7) A police officer or a senior police officer may require a person seeking the release of an impounded vehicle to provide information to him or her for the purposes of this section in a statutory declaration.
- (8) Circumstances that may be prescribed by regulations made for the purposes of subsection (2)(k) are not limited by the circumstances described in the other paragraphs of subsection (2).