

80G. Procedure and grounds for making orders under s. 80A to 80CB

- (1) In this section —
Commissioner includes a person for the time being authorised by the Commissioner in writing to perform functions of the Commissioner under this section;
order means an order under section 80A, 80B(1), 80C(1), 80CA(1) or 80CB(1).
- (2) An application for an order —
 - (a) can only be made by the Commissioner; and
 - (b) is to be heard —
 - (i) as part of the proceedings in which the person is convicted of the offence because of which the order is sought; or
 - (ii) in subsequent proceedings commenced no later than 3 months after the proceedings in respect of the conviction.
- (3) A person is to be regarded as having sufficient notice of the Commissioner's intention to make an application for an order in respect of a particular vehicle if —
 - (a) the Commissioner gives the person written notice of that intention at least 14 days before the application is made and the person is —
 - (i) the driver of the vehicle; or
 - (ii) a responsible person; or
 - (iii) any other person who the Commissioner is aware has or may have an interest in the vehicle;
 - or
 - (b) in the case of a person not referred to in paragraph (a), the Commissioner publishes notice of that intention at least 14 days before the application is made in a newspaper having State-wide circulation.
- (3A) Despite subsections (2) and (3), the court may make an order on its own initiative in proceedings referred to in subsection (2)(b), in which case subsection (3) applies as if —
 - (a) references to the Commissioner were references to the court; and
 - (b) references to an intention to make an application were references to an intention to make an order.
- (4) Before a court makes an order it has to give a reasonable opportunity to show cause why the order should not be made to —
 - (a) the driver of the vehicle; and
 - (b) if a person other than the driver is a responsible person for the vehicle, each responsible person; and
 - (c) each other person, if any, who has an interest in the vehicle.
- (5) In determining whether or not to make an order other than an order under section 80A(3) or (4), the court may have regard to —
 - (a) whether the offence because of which the order is sought was committed with the knowledge and acquiescence of a person who has an interest in the vehicle; and

- (b) whether making the order will cause severe financial or physical hardship to a person who has an interest in the vehicle or the usual driver of the vehicle; and
 - (c) any other relevant matter.
- (6A) The court is required to make an order that may be made under section 80A(3) or (4) unless it is satisfied that the order would cause severe financial or physical hardship to a person, other than the driver of the vehicle, who has an interest in the vehicle or is the usual driver of the vehicle.
- (6) A person —
 - (a) who is given notice under subsection (3)(a); or
 - (b) who has satisfied the court that the person has an interest in the vehicle,must not do a restricted act in respect of the vehicle unless a court has made an order approving of the proposed act.

Penalty for this subsection: a fine of 50 PU.
- (7A) A person does a restricted act in respect of the vehicle if the person —
 - (a) disposes of any interest that the person has in the vehicle; or
 - (b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the vehicle.
- (7) If the Commissioner advises the CEO in writing that the Commissioner intends to apply for an order in respect of a particular vehicle, the CEO must not, before the application is decided, transfer the licence of the vehicle if the vehicle is licensed.