

80JA. Disposal, with consent, of vehicles impounded under s. 79 or 79A

- (1) In this section —
impounded vehicle means a vehicle that is impounded under section 79 or 79A.
- (2) If the Commissioner is satisfied that each person who has an interest in an impounded vehicle has, in accordance with subsection (4), consented to the Commissioner doing so, the Commissioner, on behalf of those persons, may sell or otherwise dispose of the vehicle.
- (3) The Commissioner may sell or otherwise dispose of a vehicle under subsection (2) —
 - (a) even if the impounding period has not elapsed; and
 - (b) even if the Commissioner may sell the vehicle under section 80J; and
 - (c) whether or not a charge of an offence for which the vehicle was impounded has been heard or determined by a court; and
 - (d) whether or not any appeal against the conviction for an offence for which the vehicle was impounded or confiscated has been concluded.
- (4) The consent of a person who has an interest in an impounded vehicle to the Commissioner selling or otherwise disposing of the vehicle has no effect unless —
 - (a) the person has been informed in accordance with subsection (5); and
 - (b) the consent is in writing and signed by the person; and
 - (c) the consent is given at least 48 hours after the vehicle is impounded.
- (5) The Commissioner must ensure a person who has an interest in an impounded vehicle is informed —
 - (a) of the effect of this Division in relation to impounding and selling vehicles; and
 - (b) of the liabilities that this Division imposes on persons for the costs and expenses incurred by the Commissioner.
- (6) The Commissioner may require a person who has an interest in an impounded vehicle to provide information to the Commissioner for the purposes of this section in a statutory declaration.
- (7) If the Commissioner sells or otherwise disposes of an impounded vehicle under subsection (2) —
 - (a) the Commissioner must release the vehicle to the buyer; and
 - (b) the buyer obtains a good title to the vehicle if the person acquires it in good faith and without notice of any failure to comply with this section in relation to the sale or disposal; and
 - (c) the proceeds of the sale are to be paid in the order of priority provided by subsection (8).
- (8) The proceeds of the sale or disposal of a vehicle under subsection (2) are to be paid in the following order of priority —
 - (a) for expenses incurred in selling the vehicle;

- (b) for the expenses specified by the Commissioner as being equivalent to all reasonable expenses of the Commissioner in impounding the vehicle;
 - (c) if the sale or disposal occurs after the impounding period ends, for expenses (if any) incurred in storing the vehicle after that period ends;
 - (d) the balance —
 - (i) if only one person has an interest in the vehicle, to that person;
 - (ii) if there are 2 or more persons who each have an interest in the vehicle, to each such person according to the proportion that the value of the person's interest bears to the value of the vehicle.
- (9) If an impounded vehicle is sold or otherwise disposed of under subsection (2) and —
- (a) no charge is laid for the offence for which the vehicle was impounded within 3 months after the date of the offence; or
 - (b) the charge for that offence is withdrawn or dismissed for want of prosecution; or
 - (c) the person charged with that offence is acquitted,

the Commissioner must pay to the person or persons referred to in subsection (8)(d) in accordance with that paragraph an amount equal to the amounts paid under subsection (8)(a), (b) and (c).