

## LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

### Report No.24 on the

### Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012

## QUEENSLAND GOVERNMENT RESPONSE

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### INTRODUCTION

On 27 November 2012, the Police Powers (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012 (the Bill) was introduced into Parliament.

The Bill was subsequently referred to the Legal Affairs and Community Safety Committee (the Committee) with a report back date of 12 March 2013.

On 12 March 2013, the Committee tabled Report No.24 in relation to the Bill (the Report).

The Queensland Government response to the Report's recommendations on matters raised by the Committee and key fundamental legislative principles are provided below.

### RESPONSE TO RECOMMENDATIONS:

#### *Recommendation 1*

*The committee recommends that the Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012 be passed.*

- Queensland Government response: **Supported.**

The Queensland Government thanks the Committee for its timely consideration of the Bill and appreciates the Committee's recommendation that the Bill be passed.

#### *Recommendation 2*

*The Committee recommends that the Minister for Police and Community Safety consider delaying the commencement of the amendments to the PPRA for an appropriate period, as determined by the Minister, to allow the QPS to (1) inform its officers of the practicalities involved in rolling out these changes and develop internal policies; and (2) educate the public on effects of the changes.*

Queensland Government response: **Supported.**

The Bill provides that the provisions relating to the impoundment of motor vehicles commence upon proclamation. The Queensland Government recognises that the QPS will require time to develop policies, train staff and conduct a public awareness campaign prior to the commencement of the Bill. Consequently, a six month period has been allocated between the assent of the Bill and its commencement to allow for completion of these tasks. This timeframe is considered sufficient at this time. The Government will monitor implementation of the Bill and will consider any future request for an extension at that time.

***Recommendation 3***

***The Committee recommends that the Minister for Police and Community Safety outline to the House, in his response to this Report, whether he is confident that the Bill is constitutionally valid having regard to the South Australian case of Bell v Police.***

Queensland Government response: **Supported.**

On 17 October 2012, the decision of *Bell v Police* [2012] SASC 188 considered the validity of the South Australian motor vehicle forfeiture laws. South Australian forfeiture legislation required a court to make a forfeiture order in certain circumstances, if the prosecution applied for the order. These laws were found to be incompatible with the Constitution as they impinged on the judicial integrity implication outlined in *Kable v Director or Public Prosecutions (NSW)* (1996) 189 CLR 51.

The QPS has sought advice from Crown Law in light of the decision of *Bell v Police* [2012] SASC 188 and it is satisfied that the Bill does not raise similar constitutional issues.

***Recommendation 4***

***The Committee recommends that the Minister for Police and Community Safety consider issuing public guidelines on the process adopted to determine compensation under the new section 121A of the Police Powers and Responsibilities Act 2000.***

Queensland Government response: **Supported.**

The development of guidelines is supported. However, the Queensland Government's position is that the proposed guidelines should not have the effect of fettering the Minister's discretion with respect to decisions about compensation payable. Due process requires that the Minister consider each application on a case-by-case basis, taking into consideration the facts and circumstances of each case. The QPS will make information available to members of the public by way of guidelines about the process for seeking compensation.

The Queensland Government thanks the Committee for its consideration of the Bill.