

## **SECOND READING SPEECH**

### *POLICE OFFENCES AMENDMENT (MISCELLANEOUS) BILL 2010*

**Michelle O'Byrne MP**

**MINISTER FOR HEALTH**

Mr Speaker,

I move that the Bill now be read a second time.

This Bill contains amendments to the *Police Offences Act 1935* relating to the confiscation and clamping of vehicles, and the regulation of body armour.

Mr Speaker, in 2009 amendments were made to the Act to prohibit the manufacture, distribution, supply, sale or possession of body armour, unless an exemption is provided by the Commissioner of Police. To obtain an exemption under this section an application is required to be made to the Commissioner of Police, who may issue a permit subject to conditions.

Mr Speaker, police officers are issued with ballistic vests as part of their equipment for performing their duties. Ballistic vests fall within the definition of body armour. Whilst section 15E currently allows a permit to be issued to a person by the Commissioner of Police to possess, manufacture, distribute, supply or sell body armour, it is considered that a specific legislative exemption should be provided for police officers who are acting in the performance of their duties.

This Bill amends section 15E to exempt police officers from the application of this section whilst they are in the performance of their duties as police officers. The Bill also amends the section to allow the Commissioner to exempt, in writing, a group of people from the application of subsection 15E(1).

Mr Speaker, in August this year the Chief Magistrate, Mr Michael Hill, raised an issue with the Attorney-General regarding section 37MA of the Act, which relates to the special compulsory penalty for prescribed offences for which a vehicle may be confiscated or clamped by police.

The current wording of this section allows a special compulsory penalty to be imposed on a person convicted of a prescribed offence, regardless of whether the person's vehicle was confiscated or clamped in connection with the prescribed offence.

Mr Speaker, this was not the intent of the legislation when it was introduced in 2009. The intent was that the special compulsory penalty would only be imposed on offenders convicted of prescribed offences where a vehicle had been confiscated or clamped in connection with the prescribed offence.

The Bill amends this section to clarify the original intent of the legislation and ensure that this special compulsory penalty only apply to conviction for prescribed offences where a vehicle is clamped or confiscated.

Mr Speaker, the Bill also amends section 37ZD, which relates to the unclamping or recovery of a vehicle clamped or confiscated for a second or subsequent offence. This section allows a registered operator or owner to apply to the court for the unclamping or return of a vehicle. The court may order that the vehicle be returned or unclamped if satisfied that the clamping or confiscation will cause severe hardship.

When the original amendments were made to the Act in 2004, to allow for the confiscation of vehicle, a first offence only attracted a confiscation period of 48 hours. The first offence was not included in section 37ZD at this time

because, by the time the court received an application, the 48 hour confiscation period would have expired and the owner would already have their vehicle returned. The confiscation period was extended to 7 days in 2007, with the external review process not provided for, again due to the return of the vehicle before an application could be made or heard by the court.

Mr Speaker, in 2009 the confiscation, and now clamping period for a first offence was extended from 7 days to 28 days for most prescribed offence. This occurred during the Parliamentary process for amendments to the Act, but failed to allow for the external review process that was in place for second and subsequent confiscation periods.

This Bill amends section 37ZD to allow a person who has their vehicle confiscated or clamped for 28 days to apply to a court for the unclamping or return of their vehicle.

I commend the Bill to the House.