

Departmental Disclosure Statement

Anti-Social Road Use Legislation Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Transport.

The Ministry of Transport certify that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

09 July 2025.

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Part One: General Policy Statement

The single broad policy of the Bill is to deter anti-social driving behaviours that negatively affect road and community safety in New Zealand, including fleeing Police, illegal street racing, dirt bike gatherings, frightening or intimidating convoys, and excessive noise. The Bill is an omnibus Bill introduced in accordance with Standing Order 267(1)(a) as the provisions deal with an interrelated topic that can be regarded as implementing a single broad policy.

The Bill seeks to implement this single broad policy by providing the Police and the courts with greater powers, as well as strengthening and creating new offences and penalties associated with these behaviours.

Anti-social road user behaviour is disruptive, dangerous, and has negative effects on road and community safety. Despite some of the anti-social behaviours listed already constituting criminal conduct, this behaviour has persisted, with Police reporting suggesting that some types of events (such as disorderly dirt bike gatherings) are growing in frequency and sophistication. Responding to this behaviour requires Police, as the key enforcement agency, to have adequate powers and tools. Penalties need to be sufficiently strong to act as deterrents.

To enable this, the Bill amends the following primary and secondary legislation.

Land Transport Act 1998

The Land Transport Act 1998 is amended to—

- create a new ‘frightening or intimidating convoy’ offence for operating a vehicle to commit a certain traffic offence (dangerous or reckless driving, street racing or sustained loss of traction, aggravated careless use of a vehicle causing injury or death) while travelling in a group of 2 or more vehicles and while operating the vehicle in a frightening or intimidating manner:
- replace the current 6-month impoundment provisions for failure to stop offences with a 28-day impoundment period. This aligns with existing Police powers to seize and impound for land transport offences, including illegal street racing, sustained loss of traction, and reckless or dangerous driving:
- broaden the existing powers to compel a registered person to immediately provide information about a driver who failed to stop by also including circumstances where the driver used the registered person’s vehicle to commit one of the following offences: illegal street racing, sustained loss of traction, or reckless or dangerous driving as part of an frightening or intimidating convoy:
- apply an enforcement officer’s ability to seize and impound the registered person’s vehicle for 28 days to the broadened offence. A court may also issue a fine not exceeding \$10,000.

The Sentencing Act 2002

The Sentencing Act 2002 is amended to—

- create a new presumption (with specified exemptions) requiring a court to order that a vehicle be either forfeited or forfeited and destroyed on a first-offence basis upon conviction for street racing, sustained loss of traction, frightening or intimidating convoys, and failure to stop while exceeding the speed limit or driving dangerously:
- provide that the new presumption of forfeiture or forfeiture destruction of vehicles will also apply for offenders who fail to provide information about the identity of the driver.

The Policing Act 2008

The Policing Act 2008 is amended to—

- give the Police power to temporarily close to traffic (including pedestrians) an area to which the public have motor vehicle access where certain anti-social road use activity is occurring or is reasonably be expected to occur:
- create a new infringement offence for a person who fails to leave a temporarily closed area:
- for the above offence, set possible consequences of a Police-imposed infringement fee of \$1,000, or a court-issued fine of up to \$3,000.

Other legislation

The Bill amends Schedule 1 of the Land Transport (Offences and Penalties) Regulations 1999 to increase the infringement penalty for creating excessive noise within or on a vehicle from \$50 to \$300 and the court fine from \$1,000 to \$3,000

Where appropriate, the Bill maintains and applies the following existing appeal rights in respect of the new or amended offences, to the extent that those new or amended offences are within the scope of those appeal rights:

- existing appeal rights against impoundment (as set out in the Land Transport Act 1998):
- existing appeal rights against court orders to confiscate, forfeit or destroy a vehicle (as set out in the Sentencing Act 2002):
- the existing general right for offenders to appeal a court order (as set out in the Criminal Procedure Act 2011).

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>The Evidence Based Policing Centre was commissioned to do research into the motivations of fleeing drivers in 2019. The results of this research can be found here: https://www.police.govt.nz/sites/default/files/publications/fleeing-driver-review-report.pdf</p> <p>Environmental Health Intelligence New Zealand released a surveillance report in June 2024 on 'Road traffic injury mortality' including the frequency of deaths and crashes caused by fleeing drivers each year between 2020 and 2022. The report can be found here: Road traffic injury mortality - ehinz.ac.nz</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NA

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>The Regulatory Impact Statement: <i>Powers, offences and penalties to address anti-social road users</i> was developed by the Ministry of Transport and finalised on 26 November 2024.</p> <p>The RIS is accessible at www.transport.govt.nz/area-of-interest/safety/anti-social-road-use</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
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2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
The size of potential costs and benefits for the policy are available at pages 16 and 17 of the RIS mentioned above.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Ensuring that Police have adequate tools and resources to enforce new or strengthened offences and penalties and can act on new powers will be fundamental to securing compliance and to deliver on the Bill's objective to deter anti-social road use behaviour.</p> <p>The discretionary nature of Police and court powers will impact on the potential costs and benefits outlined in the RIA including the:</p> <ul style="list-style-type: none"> • proposal to increase the associated infringement fee and court-ordered fine for the existing excessive noise offence, • new penalty (infringement fee or court-ordered fine) for failure to leave a temporarily closed area, <p>New measures, if effective at deterring anti-social road use behaviour, should not increase rates of vehicle impoundment. However, if this behaviour persists, there is a risk that the proposed 28-day impoundment associated with both the new convoy offence and the extended requirement for registered owners to provide information about drivers suspected of certain offending could increase the rate of vehicle impoundment. This would exacerbate current issues facing operators, such as storage capacity constraints.</p> <p>We also anticipate that, after charges are laid but before sentencing, there will be instances where vehicles are 'abandoned' (and costs not paid), particularly where costs exceed the value of vehicles. This could, at least initially, result in an increased rate of vehicle abandonment (recent figures indicate approx. 10-15% of impounded vehicles are 'abandoned'). This recognises that the new presumptive sentence of vehicle forfeiture or destruction will reduce the incentive for owners to pay these costs given their vehicle will, unless an exception applies, be ordered to be forfeited or destroyed.</p> <p>As an outcome, towage and storage operators could be discouraged from appropriately prioritising Police impoundments. This could carry safety implications if vehicles are reclaimed by drivers who continue to participate in anti-social road use behaviour. It also could result in a general unwillingness to contract to Police for anti-social road use related impoundment. This reflects that towage and storage providers will look for more financially viable work, for example insurance or local council work rather than Police work.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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No specific issues were identified in the policy process that may have implications for New Zealand's international obligations.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

<p>The Ministry consulted with Te Puni Kōkiri, who highlighted that the Bill will likely disproportionately affect Māori. For example, Māori made up about 50 percent of the people charged with fleeing Police in 2023 and so are likely to be disproportionately affected by the stronger powers. Te Puni Kōkiri also noted the potential for tangihanga processions to be affected by the new 'intimidating convoy' offence, in particular, bias and structural racism which could factor into decision-making as to what might constitute 'intimidation'.</p>

<p>This feedback is partially addressed by establishing provisions that could mitigate the impact where a court is satisfied that a sentence of vehicle forfeiture or destruction is manifestly unjust or would cause either extreme hardship to the offender or undue hardship to any other person.</p>
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<p>The Ministry assesses that the Bill partially aligns with the Crown's Treaty obligations by supporting public safety but does not address obligations to engage with Māori, protect against disproportionate impacts, or support Māori participation in implementation. This assessment is based on guidance set out in Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi / Treaty of Waitangi Guidance.</p>
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Crown Law is undertaking an assessment of whether the Bill is consistent with the New Zealand Bill of Rights Act 1990. The Bill may engage rights and freedoms recognised in and protected by the New Zealand Bill of Rights Act 1990 (NZBORA) including:

- The Police powers to impound vehicles for the new intimidating convoy and expanded identifying drivers' offence engages NZBORA section 21 relating to unreasonable search and seizure, as it allows private property to be seized for 28 days prior to conviction.
- The compulsion of information from registered persons, i.e., through the penalty of impoundment and forfeiture or destruction, may engage NZBORA section 14 relating to freedom of expression.
- Providing Police with a new power to temporarily close an area where certain anti-social road use activity is occurring or may reasonably be expected to occur, and establishing a new infringement offence is likely to engage:
 - Section 14 Freedom of expression,
 - Section 18 Freedom of movement, and
 - Section 22 Liberty of the person.
- The new convoy offence may engage NZBORA section 17 relating to freedom of movement, and section 18 Freedom of association.

The Bill has been designed to mitigate the risk of inconsistency with NZBORA, including by:

- Providing the courts with a discretion to *disapply* the presumptive regime to avoid manifest injustice, or when it would cause either extreme hardship to the offender, or undue hardship to any other person.
- Defendants will retain their existing rights of appeal against their sentence, including court orders for forfeiture and destruction.
- Appeal provisions for third parties are provided for where vehicle forfeiture and destruction follow the application of the new presumption.

Advice provided to the Attorney-General by Crown Law, and/or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/section-7-reports/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES

Question 3.4(a)

New

New Section 39A of the Land Transport Act 1998 (**LTA**) creates a new offence for operating a motor vehicle in a convoy (two or more) whilst committing existing traffic offences with the intent to either intimidate or frighten.

New Section 35A of the Policing Act 2008 creates a Police power to temporarily close an area to which the public have motor vehicle access (whether as of right or not), in circumstances where certain anti-social road use activity is either occurring or may reasonably be expected to occur. This power may only be exercised where there is reasonable cause to believe certain anti-social road use activity (intimidating convoys, street racing, loss of traction, disorderly dirt bike gatherings and siren battles) is either occurring or may reasonably be expected to occur in the area. New section 35A also:

- creates a new infringement offence for a person, without reasonable excuse, failing to leave a temporarily closed area, and
- establishes possible consequences of a Police-issued infringement fee of \$1000, or a court issued fine of up to \$3,000.

New and Amended

With respect to offenders who own or have an interest in the relevant vehicle at the time of an offence that is engaged by the new presumption, the current vehicle confiscation and destruction provisions (sections 128 and 129 of the Sentencing Act 2002 (**SA**)) are amended while section 129A SA will no longer apply. This change was made to reflect that the presumptive sentence of vehicle forfeiture or destruction applies to the offences of street racing and loss of traction (offence s 36A LTA), fleeing drivers (offence s52A LTA) intimidating convoys (new s 39A), and failure to identify drivers (offence new s 52(3) LTA) on a first-offence basis.

However, the Bill retains existing sections 128, 129, and 129A of the SA to the extent that these provisions can continue to apply to a 'substitute' or 'substitute for the offender'. For clarity, this 'substitute regime' is a current mechanism in the SA – the Bill retains and does *not* alter that regime. This ensures that the new presumption of vehicle forfeiture or destruction does not apply to substitutes.

The Bill limits the application of the presumptive sentence by providing that the court must order forfeiture or destruction of the vehicle if satisfied that the offender is either the person registered in respect of the vehicle used in the offence or 'owns or has an interest in' that vehicle. A court must not make an order under the presumptive sentence if satisfied that:

- The vehicle is stolen or converted (note, this exception does not apply to the presumptive sentence for the failure or refusal to provide information offence under new s 52(3)).
- It would be manifestly unjust to do so.
- It would cause extreme hardship to the offender, or undue hardship to any other person (this aligns with existing hardship exceptions with respect to other vehicle-related sentencing powers).

Section 118(4) of the LTA is amended to extend the ability for Police to request information about a driver suspected of committing a failure to stop offence, and the application of the offence under current section 52(6) of the LTA for failing or refusing to give information about that driver, to also include the following anti-social road use offences: street racing and sustained loss of traction (offence s36A LTA), and the intimidating convoy offence (new s39A). Consequently, section 96AAB has been amended so that the consequence of 28-day impoundment applies to the broadened offence.

Section 52(7) is amended to decrease the fine courts can impose from \$20,000 to \$10,000 for the offence for failing to provide information (note this is to balance the new presumptive sentence that will also apply).

Section 96AAA is repealed and section 96 is amended to reduce the 6-month impoundment period for failure to stop offences to 28 days. Section 96 is also amended to include that

drivers who commit an intimidating convoy offence may also have their vehicle impounded for 28 days.

Schedule One of the Land Transport (Offences and Penalties) Regulations 1999 is amended to raise the infringement penalty for creating excessive noise within or on a vehicle from \$50 to \$300 and the court fine from \$1,000 to \$3,000.

Question 3.4(b)

Where appropriate, the Bill maintains and applies the following existing appeal rights in respect of the new or amended offences, to the extent that those new or amended offences are within the scope of those appeal rights:

- existing appeal rights against impoundment (as set out in the LTA);
- existing appeal rights against court orders to confiscate, forfeit or destroy a vehicle (as set out in the SA);
- the existing general right for offenders to appeal a court order (as set out in the Criminal Procedure Act 2011).

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
The Ministry of Justice (Justice) has been involved in the policy development process and the drafting of the Bill. In particular, officials have provided advice on proposed penalties so they can be consistent, commensurate and proportionate to the harm caused. Justice notes that the Bill may engage rights and freedoms recognised in and protected by the NZBORA.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
The Bill expands the existing offence under s 52(6) of the LTA for failing or refusing to give information about drivers who are suspected of a fail to stop offence by also including other anti-social road use offences (street racing, sustained loss of traction, the convoy offence). It also establishes a presumptive penalty of vehicle forfeiture and destruction on a first offence basis for those who fail or refuse to provide such information about drivers or provides false or misleading information to Police. This could create a stronger incentive to convey personal information to police to avoid criminal liability.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>The Office of the Privacy Commissioner (OPC) noted that the proposal to compel, through vehicle confiscation, a vehicle owner to name an offending driver is a direct intrusion on the owner's privacy and creates a risk of people falsely being accused of driving offences. OPC recommended further policy work on privacy risks and potential mitigations for this proposal and proposals that penalise those attending gatherings to ensure that decisionmakers are fully informed on privacy aspects.</p> <p>The requirement to provide information about a driver currently exists in the LTA in relation to identifying drivers suspected of a fail to stop offence. We are expanding the current power and retaining the existing requirement that, for Police to impound a vehicle for committing this broadened offence, they must consider it necessary to prevent a serious threat to road safety. We consider this better justifies the compelling of person information. We have not undertaken further analysis to determine whether the new presumptive sentence of vehicle forfeiture or destruction attached to this offence may compel vehicle owners to provide false or misleading information.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The following departments have been consulted on the policy to be given effect by this Bill, and on a draft of the Bill: Department of Prime Minister and Cabinet, Treasury, Ministry for Regulation, Ministry of Justice, New Zealand Police, Office of the Privacy Commissioner, Te Puni Kōkiri, Department of Internal Affairs (Local Government), Crown Law, Parliamentary Counsel Office, and the Department of Corrections.</p> <p>There has been no other external consultation outside government departments.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>Officials have worked closely with relevant agencies (Police, Justice) to develop provisions that are workable and can be operationalised.</p> <p>Police consider that further powers may be required to support enforcement of the new offence for failing to leave an area temporarily closed by Police. These will be considered as part of the Policing Act Amendment Bill.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
<p>The Bill creates a new strict liability offence for failure to leave a road temporarily closed by Police and amends existing strict liability offences relating to excessive noise and identification of drivers. Given the disruptive and dangerous nature of anti-social road use behaviour, and the fact that this can negatively impact road and community safety, these measures are necessary to prevent future behaviour and protect public from harm.</p> <p><i>New infringement offence for failure to comply with a direction to leave a closed road</i></p> <p>The infringement offence for failure to comply with a direction to leave an area temporarily closed by Police has been formulated as a strict liability offence (i.e., there is no intent requirement specified). The potential adverse effects of this infringement offence being one of strict liability are mitigated by:</p> <ul style="list-style-type: none">• providing a “reasonable excuse” defence. Although this reverses the onus of proof onto the individual, this is necessary given that the individual is best placed to explain why they did not comply with a Police direction to leave a temporarily closed road; and• the penalty is at the lower end of the scale (i.e., an infringement fee). <p><i>Amended offences</i></p> <p>The infringement offence for creating excessive noise within or on a vehicle is a strict liability offence. The Bill raises the infringement penalty from \$50 to \$300 and the court fine from \$1,000 to \$3,000. Given that this increased penalty is at the lower end of the scale, we consider this amendment justified.</p>	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
<p><i>Pre-conviction</i></p> <p>The Bill creates and amends decision-making powers in relation to Police impoundment of a vehicle by:</p> <ul style="list-style-type: none"> • Extending the current Police impoundment power under section 96AAB(2)(a)(ii) of the LTA to the expanded version of the offence against section 52(6) of the LTA for failure to provide information (requested by Police under section 118(4)) about a driver of a vehicle who committed certain anti-social offences. • Creating a new Police impoundment power in circumstances where an officer reasonably believes that a driver has committed the new convoy offence. • Amending the current vehicle impoundment regime as it relates to drivers who fail to stop, by reverting to 28-day impoundment rather than 6-month impoundment. <p>The Bill retains established procedure in relation to the exercise of impoundment as provided for by the LTA. Regarding impoundment in relation to the expanded version of the failure or refusal to identify offence, Police will be required to form a belief, "on reasonable grounds", that a driver has committed the additional offences of street racing, sustained loss of traction, and intimidating convoys.</p> <p>With regard to appeals, existing appeal rights following impoundment as currently provided for by the LTA (i.e., to Police in the first instance, and to the District Court in the second) will apply in the same way to all new impoundment powers. Specific appeal grounds of hardship where a vehicle was impounded for six months following a failure to stop offence are removed given the reversion to 28-day impoundment.</p> <p><i>Post-conviction</i></p> <p>The Bill creates and amends decision-making powers in relation to court-ordered destruction or forfeiture of vehicles by establishing a presumption in favour of vehicle destruction or forfeiture on a first-offence basis following conviction for the following LTA offences:</p> <ul style="list-style-type: none"> • failing to stop or remain stopped, while exceeding the applicable speed limit or operating a motor vehicle in an otherwise dangerous manner, • operating a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, • operating a motor vehicle in a manner that causes it to undergo sustained loss of traction, • the new intimidating convoy offence, and • failure to provide information to Police about a driver who committed a particular anti-social offence, following a request made under s 118(4). <p>A court must not make an order under the presumptive sentence if satisfied that it would be manifestly unjust to do so, or it would cause extreme hardship to the offender or undue hardship to any other person. An exception where the vehicle is stolen or converted applies also, <i>except</i> with respect to the offence for failure or refusal to provide information offence under s 52(6), following a request made under s 118(4).</p> <p>[The Bill will not affect a convicted person's general right of appeal against a court order. Third parties will also retain a general right of appeal against forfeiture on undue hardship grounds. The Bill provides lessors and secured parties (that do not hold a relationship with the offender) an appeal right against a presumptive order for forfeiture or destruction of a vehicle may also appeal. Rental services who let or hire the vehicle at the material time also have a right of appeal.</p>	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
The Bill amends the Sentencing Act 2002 so that on conviction, the offender is liable to pay outstanding costs <i>not</i> covered by the sale or disposal of the vehicle. This includes towage and storage costs accumulated pre-conviction (impoundment) and costs accumulated post-conviction (sale or disposal). This approach is consistent with liability as it applies to the existing confiscation, forfeiture and destruction regime.	