

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use VPM Professional and ethical standards to inform the decisions they make to support compliance.

Road policing – enforcement

Context

Enforcing the law and investigating collisions to reduce road trauma and road crime is a primary responsibility of Victoria Police. Policing the roads may be dynamic or planned, static or mobile and each situation will be unique with safety for the community and police a primary consideration. This policy has been developed to support members when undertaking policing on our roads to ensure the strategic objectives of safety, enforcement and education are met.

This policy includes:

- information about the requirement to display or carry a driver licence or permit, licence suspensions and licence restoration
- the responsibilities of members when testing drivers affected by alcohol or drugs
- the requirement and process for seizing motor vehicles
- procedures for conducting roadworthy and random motor vehicle inspections
- the grounds and procedure for seizing Victorian number plates from a vehicle, and
- the rationale for enforcing speed-related law and using speed detectors.

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Scope and application

This policy applies to all employees.

Driver licences and permits

1. Purpose of licensing

The purposes of licensing are:

- to ensure that people who drive motor vehicles on roads and road related areas are competent drivers
- to ensure that drivers are aware of safe driving practices and road law
- to ensure that people who are, or who become, unfit to drive are not permitted to drive on highways
- to enable the identification of drivers for the purposes of law enforcement and collision investigation.

2. Digital and physical licence or permit documents

- A driver licence or learner permit may be in physical or digital format.

- A digital driver licence or learner permit document (DDL) is a document capable of being displayed on a mobile device.
- Displaying a DDL on request satisfies the requirements of carrying and producing the driver licence or learner permit.
- As with a physical driver licence or learner permit, a DDL may be issued in another State or Territory, or another country and is valid in Victoria.
- If a mobile device storing a DDL is inoperable (e.g. flat battery, out of service), it is to be treated the same as not carrying or producing the driver licence or learner permit.
- A member requesting a person to display a DDL may require the person to show the DDL clearly and refresh the DDL to confirm it is the current version.
- A person requested to display a DDL is not required to give the mobile device to a member for any period of time.
- Police may still seize a mobile device under common law or warrant where appropriate.

3. Requirement to display, produce or carry driver licence or permit

3.1 *Legislation and requirement to produce*

Police may request production or display of a driver licence of any person driving or in charge of a motor vehicle (s.59, *Road Safety Act 1986* (RSA)). It is an offence if the person does not produce or display their licence unless they meet all of the following criteria:

- hold a full licence not subject to s.59(3A), RSA
- give a reasonable excuse for the failure
- provide a specimen of their signature
- within seven days produce their driver licence document or permit document, or DDL at the police station (if any) specified by the Police member or other person who requested its production.

3.2 *Member requesting production or display of licence*

If the person cannot produce or display their licence:

- have the driver provide a specimen signature and instruct them to produce/display their licence or permit within seven days at a nominated police station
- send a Licence Production Form [Form 503], or a copy of an infringement notice if issued for another offence, to the nominated police station
- issue an infringement notice if the excuse is unreasonable and not accepted.

3.3 *Employee at nominated police station*

- Complete entry in Licence Production Book [PB 49].
- Complete and return Form 503 to the originating member.

4. Persons unfit to hold a driver licence

- Where a member believes that the holder of a driver licence or permit may be temporarily or permanently unfit to hold that licence or permit they must:
 - complete a Licence Review Request [VP Form 195]
 - have the Form 195 checked and approved by a supervisor
 - email it to the VicRoads Medical Review Section
 - where the request is police initiated, complete a Driver Notification letter [attached to Form 195] and forward it to the driver
 - consider prohibiting the person from driving (s.62, RSA).
- A Licence Review Request can be submitted based on a member's observations or knowledge of a person's driving, or on behalf of someone else (e.g. a relative or member of the public) who has concerns for a person's fitness to drive. A statutory declaration should be considered when submitting the request on someone else's behalf.
- A Licence Review Request can be submitted for Victorian, interstate and overseas licences/permits.
- For advice regarding whether a person may be medically unfit to hold a licence or permit contact the Victorian Institute of Forensic Medicine (VIFM).
- For advice on the Medical Review process contact the VicRoads Medical Review Section or visit the VicRoads website.

5. Licence restoration

5.1 *Notification*

The Magistrates' Court forwards a notice of intention to have a driver licence restored to the Accident Records Office (ARO), Regulatory Services Department. The ARO will forward relevant documents to the police station nearest the applicant's residence.

5.2 *Licence Eligibility Orders*

A Licence Eligibility Order (LEO) from the Magistrates' Court is required for the following types of offences:

- all drug driving offences where a person's licence is cancelled
- serious motor vehicle offences such as culpable driving, dangerous driving (causing serious injury or death) or motor vehicle theft that may have involved alcohol and/or drugs
- all offences relating to a person refusing to be tested for drugs.

5.3 *VicRoads managed restorations*

VicRoads manages licence restoration for driving matters that involve only alcohol including:

- drink-driving at any blood alcohol concentration (BAC) level
- repeat drink driving
- combined drink and drug driving
- driving under the influence of alcohol

- offences relating to refusing to be tested for alcohol, such as refusing a breath test.

A LEO is not required for VicRoads managed licence restorations.

5.4 *Responsibilities of police station nearest the applicant's residence*

A member from the station nearest the applicant's residence is responsible for interviewing the applicant. The member must:

- conduct the interview at the applicant's residence and complete an Application for a Licence Eligibility Order Form [Form 1291]
- make local enquiries about the applicant with other police, neighbouring stations and division intelligence unit (DIU)
- note relevant information in the questionnaire
- forward the completed interview to the police station nearest the court of application.

5.5 *Responsibilities of police station nearest court of application*

- The completed file must be made available to a prosecutor at the station nearest the court of application.
- The prosecutor may contest the granting of the licence.
- Where a court orders that the applicant's licence may be restored, the prosecutor should:
 - hand the applicant the notice concerning the reissue of the licence, including any conditions
 - immediately forward the completed file to VicRoads, for recording and return to the ARO.
- VicRoads manages licence restoration for driving matters that involve only alcohol.

6. Immediate suspension of driver licence

6.1 *Legislation*

A person may have their Victorian driver licence or permit (including a previously suspended authorisation) immediately suspended by service of notice in accordance with Part 6B, RSA under:

- ss.85 or 85A after a charge has been filed for a relevant drink or drug driving offence
- s.85B after being given a certificate of analysis for a relevant drink driving offence
- s.85F after a charge has been filed for a relevant speeding offence
- s.85G if served an infringement notice for a relevant speeding offence
- s.85I if charged with a relevant offence where a motor vehicle was used.

An unlicensed driver or a person who holds a non-Victorian driver licence or permit (or no licence) may be immediately disqualified from driving in Victoria, or from obtaining a Victorian licence or permit by service of notice in accordance with Part 6C, RSA under:

- ss.85Y or 85Z after a charge has been filed for a relevant drink or drug driving offence

- s.85ZA after being given a certificate of analysis for a relevant drink driving offence
- s.85ZE after a charge has been filed for a relevant speeding offence
- s.85ZF if served an infringement notice for a relevant speeding offence
- ss.85ZH or 85ZHA if charged with a relevant offence where a motor vehicle was used.

6.2 Procedure

- The responsible member must:
 - complete a Notice of Immediate Driving Ban [Form 809 or 809D] unless exceptional circumstances exist; attach report of circumstances to the brief of evidence. Only use Form 809D after serving a certificate of analysis for drink driving offences or an infringement notice for a relevant speeding offence
 - serve a copy on the driver and complete the service details on VicRoads and Police Brief copies
 - take the physical driver licence/permit from the driver. A DDL will reflect the suspension once the Form 809 or 809D is processed by VicRoads.
- A supervisor must check completed Form 809 or 809D, and then:
 - scan and email the VicRoads copy to VicRoads Driver Relicensing Services at Part6B@transport.vic.gov.au; forward the original and driver licence/permit
 - attach the Police Brief Copy to the brief of evidence or retain it with notes if proceeding via infringement notice.
- If a Victoria Police employee is involved, forward a copy to Professional Standards Command (PSC).
- If the notice is served under ss.85B, 85F, 85ZA or 85ZF, RSA and the driver is subsequently charged, the informant must ensure the following are forwarded to VicRoads Driver Relicensing Services after service of charge/summon:
 - copy of charge/summons with driver's details and driver licence number
 - affidavit of service of summons.
- A senior sergeant or above may cancel a notice according to s.85Q or s.85ZO RSA by:
 - completing a Cancellation of Immediate Driving Ban [Form 809B] and serving it on the driver
 - immediately emailing a copy of the withdrawal to VicRoads
 - forwarding a copy to PSC if a Victoria Police employee is involved.

Number plates

7. Seizing number plates

7.1 Legislation

Police may seize a Victorian number plate if they:

- have reasonable grounds for suspecting it is being used other than in accordance with, or was not issued under, the RSA or *Road Safety (General) Regulations 2019* (Regulations) (s.16, RSA)

- find a motor vehicle (intercepted or left standing) of a registered operator against whom an enforcement warrant has been issued (Part 12, *Fines Reform Act 2014*).

7.2 *Grounds for seizing number plates*

Police may only seize number plates when any of the following applies:

- they were not issued by the Secretary to the Department of Transport
- they do not bear the registration number last assigned to the vehicle
- they are to be used as an exhibit
- VicRoads have advised the registration has been cancelled
- a Sheriff's officer is present if police are making the seizure under the *Fines Reform Act*.

7.3 *Procedures for managing seized number plates*

- Forward number plates that have been seized when the registration is cancelled to the nearest VicRoads Registration and Licensing Office. Include a report that provides details of the plates and the reason for their confiscation. Custom/personalised plates should not be seized in these circumstances.
- Handle number plates seized as an exhibit, in accordance **VPM Property and exhibit management**.
- Recovered stolen custom/personalised plates should be photographed and returned to the rights holder (customer), unless otherwise advised by VicRoads.
- Direct members of the public to a VicRoads Registration and Licensing Office if they wish to return number plates.
- Only seize interstate plates as an exhibit and not for any of the circumstances listed in s.16, RSA.

8. **Cloned number plates**

Upon intercepting a vehicle with suspected cloned number plates, the attending members must:

- confirm the vehicle and owner details via a LEAP/registration check
- confirm the identity of the vehicle driver and occupants
- identify and investigate the nexus between the driver, occupants and the vehicle
- check for any 'registration notes' or vehicle whereabouts requirements, as well as previous enquirers details for the vehicle
- conduct a thorough visual inspection of the vehicle and confirm the make/model/VIN/Engine Number match the LEAP vehicle details
- examine the vehicle number plates to identify any alteration/falsity
- if the number plates are determined to be the cloned plates, seize them as an exhibit
- establish any links between the cloned plates and other matters by interrogating intelligence systems such as Interpose, TRACER and VAPOR
- ensure that investigating members are updated

- process the offender for applicable offences (s.72(1), RSA) and any other relevant offences
- submit relevant LEAP reports
- clear active vehicle whereabouts (or action applicable whereabouts instructions)
- contact the Traffic Camera Office (TCO) for advice or assistance.

Roadworthy and random inspections

9. Legislation

- A member may inspect a motor vehicle or trailer used on a road or road related area for roadworthiness or conduct a random safety inspection on a vehicle found in a public place in accordance with s.13, RSA.
- A member may issue a Defect Notice [Form 527A] in the following circumstances:
 - Major Defect – if further use of the vehicle after the time specified in the notice would constitute a serious or significant safety risk
 - Major (Grounded) – if further use of the vehicle after the time specified in the notice would constitute an imminent and serious safety risk and the defect must be rectified immediately or the vehicle towed/carried away
 - Minor Defect – if deficiencies in the vehicle, if allowed to continue after the time specified in the notice, may constitute a safety risk
 - Self-clearing (Heavy vehicles only) – if deficiencies are of a very minor nature and do not require further inspection after rectification (should only be used by Heavy Vehicle Unit)
 - Formal Warning.
- A member may issue a Form 527A to the registered operator (or owner if vehicle not registered) where they reasonably suspect a vehicle has been used in the preceding 30 days, or will be used, on a road or road-related area, and believe the vehicle does not comply with the RSA or Regulations (s.13(2), RSA).

10. Procedure

Where a member conducts an inspection and identifies a defect, they should:

- complete Form 527A
- serve Form 527A on the driver or cause the notice to be affixed to the vehicle if unattended
- send a copy of the Form 527A to VicRoads before the end of shift
- indicate on the Form 527A the specified date and time after which the vehicle must not be used on a road. This must be seven clear days from the date of issue unless either of the following applies:
 - the vehicle is a truck or bus exceeding 105 kph (see section 32 of this policy)
 - has a major defect where there is an imminent and serious safety risk that requires use to be prohibited immediately
- affix defect notice to vehicle.

Unless self-clearing, notices are to be cleared at a VicRoads Customer Service Centre or Authorised Inspection Centre. This cannot be processed at a police station.

Speeding offences

11. Enforcement action

To reduce road trauma, police are responsible for enforcing relevant provisions of the road policing legislation. When enforcing speed-related law, members must apply the following:

- all speed limits should be strictly enforced
- detected speed is the speed recorded on the speed detector at the time
- if a speed detector is not used, the alleged speed is the estimated speed range (for example 65-70kph); do not record a detected speed
- alleged speed for a speed detector (laser/radar) is the detected speed, less the applicable legislated tolerance (+/-2kph) (e.g. detected speed 80kph, alleged speed 78kph)
- alleged speed for a fixed digital safety camera is the detected speed, less the applicable legislated tolerance (+/-2kph or 2% whichever is greater)
- alleged speed for a mobile digital safety camera is the detected speed, less the applicable legislated tolerance (+/-3kph or 3% whichever is greater)
- offending drivers must be charged or receive an infringement notice based on the alleged speed. In the case of speed camera infringement notices only declare the alleged speed.

12. Use of speed detectors

12.1 *Training and authorisation to use prescribed speed detectors*

- Speed Measurement Services is the only authorised training establishment within Victoria Police for training and authorising members in the use of prescribed speed detectors.
- Members can only use a speed detector type (e.g. radar, laser, mobile radar) for which they have been appropriately trained and authorised.
- Authorised users must complete regular online refresher modules as required.

12.2 *Speed Detectors*

- All speed detectors are to be used in accordance with their operational requirements.
- Prescribed speed detectors are listed in r.41 of the Regulations.

12.3 *Inspecting readings*

Invite drivers to inspect the readings obtained by use of prescribed speed detectors as soon as practicable after interception.

12.4 *Use of prescribed speed detectors near speed restriction signs*

Do not use speed detectors to detect the speed of vehicles travelling within 100 metres of a restriction or de-restriction sign, unless the sign is a repeater sign. The only exceptions are either of the following:

- the use of laser in school and construction zones
- where the Road Policing Inspector or the Inspector, State Highway Patrol directs otherwise.

12.5 *Speed checks by maintaining an even distance in front of a vehicle*

- Members may only exceed the speed limit in accordance with Rule 305, *Road Safety Road Rules 2017*.
- A speed check of a vehicle following a police vehicle should only occur in exceptional circumstances. Evidence of the vehicle's speed can only be given by way of estimation. No reference is to be made to maintaining an even distance between the police and accused's vehicle.

Driving when affected by alcohol or drug

13. Testing drivers for alcohol

13.1 *Overview*

Police test drivers of motor vehicles to determine whether they are impaired due to the consumption of alcohol. The investigating or reporting member must take action under Part 5, RSA when a driver or person in charge of a motor vehicle is detected apparently affected by or under the influence of alcohol.

13.2 *Preliminary breath tests*

- A preliminary breath test (PBT) must be conducted on all:
 - intercepted drivers or persons in charge of motor vehicles, including supervising drivers
 - drivers and persons in charge of motor vehicles involved in collisions within the preceding three hours (except where injury precludes this)
 - occupants of motor vehicles involved in collisions within the preceding three hours when the driver's identity is not satisfactorily known
 - drivers and persons in charge of motor vehicles stopped at a preliminary testing station
 - rail safety workers (*s.126, Rail Safety National Law (Victoria)*) and bus drivers directly involved in an accident or incident involving public transport.
- When making a demand for a PBT under s.53, RSA members are to ensure that they advise the driver of each individual requirement; refer to **PBT Requirement Guide**.
- Where a driver is unable to provide a sufficient sample:
 - record a 'fail to provide' result in the device and submit a report to the work unit manager
 - make a requirement for an evidential breath test (EBT) under s.55(1)(b), RSA; refer to section 13.3 of this policy.
- A PBT must be conducted and a result obtained where lawful to do so. In situations where a PBT cannot lawfully be conducted, consider requirements under s.55(2), RSA.
- Any driver found to be at or in excess of the prescribed concentration of alcohol as indicated by the PBT, or who refuses a PBT or a requirement to remain or accompany for a breath test (and in the opinion of the member making the demand

is incapable of proper control of the motor vehicle) must not be allowed to continue driving; consider using s.62, RSA to require surrender of any ignition key or to immobilise the vehicle.

- PBT concentration results must not be disclosed to the person under any circumstances.
- A PBT may also be used:
 - in accordance with a court order for a criminal matter (e.g. bail conditions)
 - by police when delivering lectures to school or community groups
 - for training purposes
 - for demonstration purposes during a public relations exercise at a school, community group, conference or exhibition.
- A PBT must not be used:
 - in accordance with a court order for a civil matter (e.g. family court orders)
 - to endorse a person's capacity to drive after alcohol consumption (e.g. at a police station, at public recreational events such as food, wine and music festivals or sporting events).
- When a PBT is conducted, record the following details on ePDR, Patrol Duty Return Form [Form 501], Official Diary [PB13] or Record of Non-Operational PBTs [Form 1130]:
 - serial number of the device used
 - last test number before the start of the shift and last test number conducted at the end of the shift
 - the number of the test where an offence is disclosed.
- PBT devices issued to a station are provided by the Road Policing Drug and Alcohol Section (RPDAS) and contain a pre-set station code. Devices must be recorded in the work unit equipment register. If the device is relocated permanently from where it was originally issued, notify RPDAS to change the code. If a device temporarily loaned to another station, the station issuing the device must record:
 - the station receiving the device
 - time and date of issue and return
 - last test before the loan and last test on return.
- Where a device is lost, stolen or destroyed the member must:
 - notify the work unit manager or supervisor
 - submit LEAP reports with Victoria Police as victim
 - submit a Report for Theft/Loss and Damage of Property Form [Form 1409].
- The work unit manager must send a copy of the file outlining the circumstances with the request for replacement to RPDAS as soon as possible.
- If a device is lost, stolen or destroyed the Region or Department where the device was issued will bear the cost of replacing the device.

13.3 *Evidential breath tests*

- An EBT must be conducted where:
 - the PBT indicates that the reading is at or in excess of the person's applicable BAC
 - the person is unable to complete a PBT to the member's satisfaction.

- If a person is reasonably suspected of driving while impaired by alcohol and/or drugs but was not found driving or in charge of the motor vehicle, under ss. 55(2) and 55(2AA), RSA, a member may require the person to accompany them to a police station for an EBT. A PBT is not permitted under these circumstances.
- An EBT must be conducted in accordance with this policy, applicable legislation, and training.
- To have an EBT conducted where the intercepting member is not an authorised breath analysis instrument operator:
 - notify Police Communications
 - take the affected driver to a location where an authorised breath analysis operator is available or as directed by the Divisional Patrol Supervisor. The Divisional Patrol Supervisor may direct an authorised breath analysis operator to attend a location to conduct the test
 - in country areas, follow local instructions.
- When making a demand under ss.55(1) or 55(2), RSA, members must ensure that they advise the driver of each individual requirement including the requirement to:
 - accompany the member to the nominated place
 - remain there:
 - until the impaired/affected driver receives a certificate of analysis, or
 - for a period of three hours from the time of driving or being in charge of the motor vehicle, whichever occurs sooner.
- A driver must only be given one breath test where a Certificate of Analysis has been produced. Additional tests may be required when a certificate has not been produced. The printout may indicate insufficient sample, alcohol in mouth or several other conditions. There is no limit to the number of attempts that can be required to produce a Certificate. However, if on any two occasions the printouts indicate any combination of the following three conditions; range exceeded, alcohol in mouth, or interferent detected, then no further breath test attempts are permitted and a blood sample must be required under s.55(9A), RSA.
- A driver who returns a breath analysis in excess of their prescribed limit is prohibited from driving under s.62, RSA.
- Where there are reasonable grounds to believe that a driver, or person in charge of a motor vehicle, is under the influence of drugs other than alcohol, or they return a low alcohol reading inconsistent with their level of impairment, the attending police officer should conduct a roadside impairment assessment to determine whether the driver should be required to undergo a Drug Impairment Assessment (DIA).
- A Field Contact Drug/Drink Drive Ban must be completed and submitted to LEDR MK2.
- A VPeR Impaired driving referral should be offered to all drivers detected in excess of the prescribed concentration of alcohol. Where consent is obtained, eReferrals are to be submitted through LEDR MK2.
- Where there is any doubt as to the impairment of a driver and there is belief that their condition may be due to injury or illness, seek medical attention immediately.
- The Authorised Operator must forward a completed copy of the RPDAS proforma notes and Data Collection Sheet to RPDAS ALCOHOL PBEA prior to the conclusion of the shift.

14. Testing drivers for drugs

14.1 Overview

- Police test drivers of motor vehicles to determine whether they are impaired due to the consumption of drugs. The investigating or reporting member must take action under Part 5, RSA when the behaviour or appearance of a driver or person in charge of a motor vehicle appears to be affected by or under the influence of drugs.
- Where a driver is showing signs of being drug affected and has produced a negative PBT result, a DIA should be conducted, not an Oral Fluid Test (OFT). See the Drug Impairment Assessment Resources page on the intranet for more information.

14.2 Drug Impairment Assessment

- To be required to undergo a DIA under s.55A, RSA, the subject, as the driver or person in charge of a motor vehicle must:
 - have been one or more of the following:
 - intercepted as the driver or person in charge of a motor vehicle
 - involved in an accident within the preceding three hours (except where injury precludes this)
 - an occupant of a motor vehicle involved in an accident within the preceding three hours when the driver's identity is not satisfactorily known
 - a driver or person in charge of a motor vehicle stopped at a preliminary testing station
 - a driver lawfully required to undergo a PBT
 - a driver who was first required to undergo an EBT, and
 - their behaviour or appearance indicates that they may be impaired for a reason other than alcohol.
- The DIA must be conducted:
 - in accordance with this policy and s.55A(4), RSA, and
 - by an authorised Drug Impairment Assessor who has successfully completed DIA training.
- To conduct a DIA:
 - notify Police Communications and if applicable, advise a Drug Impairment Assessor is required
 - take the impaired driver to a nominated location , or a location where an authorised Drug Impairment Assessor is available and remain there for the duration of the assessment
 - in country areas, follow local instructions.
- When an authorised Drug Impairment Assessor is administering Physical Impairment Tests (PIT) they must consider the safety of the subject at all times by choosing a test location that, whenever possible:
 - has a hard, level, non-slippery surface
 - is in a well-lit, unobstructed area
 - limits undue public scrutiny; and
 - is appropriate for the weather conditions (e.g. not in weather conditions with poor visibility or likely to create a slipping/falls

hazard).

- If the conditions for safely conducting a PIT are unable to be met, the member conducting the assessment must either:
 - require the test to be conducted at another nearby location or at a police station, or
 - make appropriate allowances in interpreting the observation of the tests.
- The DIA must be video recorded unless there are exceptional circumstances. A Body Worn Camera recording should be made of the assessment wherever possible and categorised as RSA Impairment Assessment. Members must comply with **VPM Body Worn Cameras**.
- DIAs must not be conducted in a manner to deliberately cause embarrassment to the suspected driver e.g. tested adjacent to a crowded public place.
- Where a DIA cannot be completed due to concerns for the person's welfare as the result of suspected drug effect, or a medical or physical condition, a requirement for a blood sample under s55B(1), RSA, should be made as soon as possible.
- Where a PBT has been conducted, and no alcohol detected, an EBT is not required to be undertaken.
- In circumstances where a person has not undergone a PBT, an EBT must be conducted to rule out alcohol as a factor of impairment.
- If a urine sample is required when a blood sample cannot be obtained an EBT must also be conducted.
- Any driver who, in the opinion of the Drug Impairment Assessor member, is suspected of being impaired or incapable of proper control of the motor vehicle, must not be allowed to continue driving. In this situation, the Drug Impairment Assessor member must consider using s.62, RSA to require surrender of any ignition key or to immobilise the vehicle. In these circumstances, a Field Contact Drug/Drink Drive Ban must be completed and submitted to LEDR MK2.
- Members must offer an Impaired driving referral using VPeR to any driver assessed as driving whilst impaired. Where consent is obtained, eReferrals are to be submitted through LEDR MK2. Refer to the **Victoria Police e-Referral (VPeR) Practice Guide** for further guidance.
- Authorised Drug Impairment Assessors must complete the RPDAS approved Drug Impairment Assessor Refresher Training at least once every three years to ensure currency in knowledge and assessment requirements.

14.3 Preliminary oral fluid tests

- Only Authorised Officers can conduct a preliminary oral fluid test (POFT). Authorised Officers have completed the RPDAS approved training program, and are either:
 - attached to an approved work location for conducting roadside drug testing
 - approved by the Superintendent, Road Policing Operations and Investigation Division to conduct POFTs.
- The Assistant Commissioner, Road Policing Command and Superintendent, Road Policing Operations and Investigation Division are responsible for authorisation of approved work locations to conduct roadside drug testing (POFT/OFT).

- Members attached to an approved work location should conduct a POFT on all:
 - intercepted drivers or persons in charge of motor vehicles, including supervising drivers
 - drivers and persons in charge of motor vehicles involved in collisions within the preceding three hours (except where injury precludes this)
 - occupants of vehicles involved in collisions within the preceding three hours when the driver's identity is not satisfactorily known
 - drivers and persons in charge of motor vehicles stopped at a preliminary testing station
 - rail safety workers (*s.126, Rail Safety National Law (Victoria)*) and bus drivers directly involved in an accident or incident involving public transport.
- When making a demand for a POFT under s.55D, RSA, members are to ensure that they advise the driver of each individual requirement; refer to **POFT Requirement Guide**.
- Where a subject is unable to provide a sufficient sample or fails to carry out the test in the prescribed manner, members must require the subject to undergo an OFT.
- Any driver whose POFT returns a detected presence for a prescribed illicit drug as defined by the RSA, or, who refuses a POFT or requirement to remain or accompany for an OFT, and in the opinion of the member making the demand is incapable of proper control of the motor vehicle, must not be allowed to continue driving. In this situation consider using s.62, RSA to require surrender of any ignition key or to immobilise the vehicle.
- When seizing a key, follow the requirements of **VPM Property and exhibit management**.
- A POFT may also be used:
 - in accordance with a court order for a criminal matter (e.g. bail conditions)
 - with Regional Road Policing Inspector or Officer in Charge (OIC), RPDAS approval
 - by police when delivering lectures to school or community groups
 - for training purposes
 - for demonstration purposes during a public relations exercise at a school, community group, conference or exhibition.
- A POFT must not be used:
 - in accordance with a court order for a civil matter (eg. family court orders)
 - to endorse a person's capacity to drive after drug consumption (eg. at public recreational events such as food, wine and music festivals).
- When a POFT is conducted record details on ePDR, Form 501 or PB13.
- POFTs are issued to an approved workplace by RPDAS. A Roadside Drug Test (RDT) Shift Return must be completed by the member whenever POFTs are conducted.

14.4 Oral Fluid Tests

- Only Authorised Officers can conduct an OFT. Authorised Officers have completed the RPDAS approved training program, and are either:
 - attached to an approved work location for conducting roadside drug testing, or
 - approved by the Superintendent, Road Policing Operations and Investigation Division to conduct OFTs

- To maintain their qualification, Authorised Officers must complete RPDAS approved Oral Fluid Refresher Training once every three years.
- OFTs should not be conducted in public, except where impractical to do otherwise, and must not be conducted in a manner to deliberately cause embarrassment to the suspected driver.
- A driver whose OFT returns a detected presence for delta-9-tetrahydrocannabinol (THC) must be prohibited from driving under s.62, RSA for a (minimum) period of 12 hours from the time of the test.
- A driver whose OFT returns a detected presence for methylamphetamine (MA) or 3,4-methylenedioxy-methamphetamine (MDMA), or any combination of the three prescribed drugs must be prohibited from driving under s.62, RSA for a (minimum) period of 24 hours from the time of the test.
- A Field Contact Drug/Drink Drive Ban must be completed and submitted to LEDR MK2.
- A VPeR Impaired driving referral should be offered to all drivers who have the presence of a prescribed illicit drug in their oral fluid. Where consent is obtained, eReferrals must be submitted through LEDR MK2.
- OFTs are issued to an approved workplace by RPDAS.
- The Authorised Officer must forward a completed copy of the RPDAS proforma notes and Data Collection Sheet to RPDAS DRUG PBEA prior to the conclusion of the shift. For further information regarding this process, refer to **Roadside Drug Testing Sample Management Administration Guide**.
- An RDT Shift Return must be completed whenever an OFT is conducted.

14.5 *Making demands under the Road Safety Act*

When making a demand under the RSA, members must advise the driver of each individual requirement, including the requirement to:

- accompany the member to the nominated place
- remain there until a breath/blood/oral fluid/urine sample has been obtained and one of the following occurs:
 - the driver has received a Certificate of Analysis (ss.55(1) or 55(2))
 - the impaired driver assessment is completed (s.55A) an oral fluid sample has been obtained and tested by a prescribed device and the person has been given part of the sample (s.55E)
 - for a period of three hours from driving or being in charge of a motor vehicle or if involved in a collision (as a driver or occupant), whichever occurs sooner.

14.6 *Compilation of briefs*

In addition to other requirements in **VPMP Briefs of evidence**, the following requirements apply:

- where a charge is laid for an offence under either s.49(1)(f) or s.49(1)(g), RSA, a charge under s.49(1)(b), RSA must also be laid
- where a charge is laid for any combination offence under either s.49(1)(bc) or s.49(1)(j), RSA, charges must also be laid under s.49(1)(b), s.49(1)(f), s.49(1)(g), s.49(1)(bb), s.49(1)(h) or s.49(1)(i), RSA, as applicable

- when approving a brief of evidence, briefs involving zero BAC restrictions must not be authorised for a breath/blood alcohol concentration below .02
- briefs of evidence involving BAC restrictions must be authorised where the breath/blood/drug concentration is at or in excess of the prescribed limit.

Any charge arising from a DIA, including refusal of any requirement as part of the assessment, must be authorised by RPDAS Training Services.

15. Blood sampling

15.1 *Notification of blood samples*

In all cases where a blood sample has been taken after, or in place of, an EBT or OFT or a DIA, complete a Notification of Blood Sample Taken Form and forward to RPDAS via the RPDAS BLOOD PBEA.

15.2 *Result of a motor vehicle collision*

If a person of or over the age of 15 years enters or is brought to a place for examination or treatment in consequence of a collision (whether or not the collision occurred within Victoria) involving a motor vehicle, the person must allow a doctor or approved health professional to take a blood sample for analysis (s.56(2), RSA).

If attendance at the place of treatment of examination is not the result of injuries sustained in the collision, but for another reason (i.e. medical condition, drug overdose, dog bite, or other reason), members should follow the process for an EBT or require a blood sample under s55(9A).

15.3 *Fatal and serious injury motor vehicle collisions*

- Where police believe that a motor vehicle collision has resulted in death or serious injury, they may require any person who they reasonably believe was, or may have been the driver, or was in charge of the motor vehicle at the time of the collision, to allow a medical practitioner or approved health professional to take a sample of blood for analysis (s.55BA, RSA).
- The person is only required to provide the sample of blood within three hours of the collision, after this time a sample can be requested, but there is no obligation for the person to provide one. This provision should be only used where a driver is uninjured.
- There is no age restriction upon this requirement. For additional information and guidance contact the Major Collision Investigation Unit (MCIU).
- If a person has been taken to a place for examination or treatment as a consequence of the collision, blood samples must be taken under s.56(2), RSA. Where the driver/occupant would otherwise not be taken to a hospital or place of treatment s.55BA applies.

15.4 *At the place of treatment*

- RPDAS supplies relevant blood sampling kits and Form 811B Certificates to enable sampling.
- The medical practitioner or approved health professional will take a sample and complete Certificate (s.57(3), RSA).
- The police samples are to remain at the place of treatment until collected.

- If the place of treatment is interstate, notify RPDAS in writing that the result of any blood analysis may be required. RPDAS will liaise with the State concerned.
- Analysis for any suspected drugs in NSW will require a separate report detailing the reasons that drugs are suspected.

15.5 *Collection*

- RPDAS will forward samples to VIFM for analysis.
- The work unit manager at the responsible police station must conduct monthly checks on their hospital police safe (for hospitals not serviced by RPDAS Couriers) and ensure the following process is followed:
 - both samples have continuity requirements and must be conveyed to RPDAS as soon as possible, the VP 811B Certificate should be in the police sample bag with the two vacuum container tubes
 - samples are sent to RPDAS using a Labmailer
 - a copy of the blood manifest must be placed in the Labmailer with the samples, with an additional copy sent to RPDAS by email RPDAS-BLOOD-OIC. Original to be retained at local level
 - employees who collect and/or deliver samples must complete a continuity statement.
- Samples obtained because of a fatal collision generally receive priority; notify RPDAS. Contact MCIU or RPDAS for advice when MCIU is investigating.
- All blood samples in police blood safes should be taken to RPDAS as soon as possible. Work unit managers must arrange inspection at least once a month and monthly audit reports are to be sent to the RPDAS BLOOD PBEA.

15.6 *Blood sample in place of breath test or Oral Fluid Test*

- Police may require a blood sample according to s.55(9A) or s.55E(13), RSA where it appears that the person is unable to provide a sample of breath or oral fluid or the instrument is unable to analyse the sample provided. In these circumstances, the following applies
 - the member requiring the breath test or OFT must be the same member requiring the blood sample. Take appropriate notes of the reasons
 - blood sample should be taken at the place where the request for a sample of breath / oral fluid was made unless it is more practical to attend elsewhere
 - the blood sample must only be taken by a medical practitioner or approved health professional who will provide two samples to police
 - police to retain both samples and provide the information card to the person
 - complete a Notification of Blood Sample Taken and forward to RPDAS.
- When making a demand under s.55(9A) or s.55E(13), RSA members must ensure that they advise the driver of each individual requirement including the requirement to:
 - accompany the member to the nominated place
 - remain there:
 - until the blood test is completed or
 - for a period of three hours from driving or collision, whichever occurs sooner.

15.7 *Blood sample after breath test or Oral Fluid Test*

A person who has been required to provide a sample of breath or oral fluid may request a blood sample, immediately after being given; a certificate of analysis relating to the breath s.55(10), RSA or, a part of the oral fluid sample s.55E(18), RSA. In these circumstances the following applies:

- the member must make all reasonable efforts to facilitate the taking of the sample (make notes of all attempts made)
- a registered medical practitioner or approved health professional can take the sample at any location
- the member must nominate the person to take the sample
- the sample must be taken in the presence of a police member
- the person is responsible for any costs incurred
- the member must retain one sample and provide the information card to the person. They should give the other sample to the person if requested
- complete a Notification of Blood Sample Taken and forward to RPDAS via RPDAS BLOOD PBEA
- arrange transport/delivery of the sample/s to RPDAS.

15.8 *Blood or urine sample after Drug Impairment Assessment*

- Where a DIA indicates that a person may be impaired by a drug other than alcohol, any member may require a blood and/or urine sample. In these circumstances:
 - the blood/urine sample should be taken at the place where the assessment was made unless it is more practical to attend at another place
 - the sample is to be taken by a medical practitioner or approved health professional who will provide a sample to police
 - a Notification of Blood Sample Taken with full details of the sample must be completed and forwarded to RPDAS
 - secure and arrange for the sample to be taken to RPDAS.
- When making a demand under s.55B, RSA members are to ensure that they advise the impaired driver of each individual requirement including the requirement to:
 - accompany the member to the nominated place
 - remain there:
 - until the blood and/or urine test is completed or
 - for a period of three hours from driving or collision, whichever occurs sooner.

15.9 *After analysis*

- VIFM will notify RPDAS of the result and send the relevant documents.
- RPDAS will notify the relevant work unit manager and send the relevant documents.
- The work unit manager:
 - on receipt of a VP811B Certificate of the Taking of a Blood Sample and/or Toxicology Certificate, must forward the certificate/s to the investigator. These certificates remain with the investigator/file.
 - on receipt of an Information Request the investigating member must

- complete the required details and return it to RPDAS immediately
 - on receipt of an Investigation File:
 - if the file is to be forwarded to a new unit/station, forward the file by email to the new unit with RPDAS cc'd
 - if the investigator is known and the file remains at the receiving unit forward the file to the nominated investigator
 - the investigator must immediately notify RPDAS of the circumstances of the file.
- Where the collision has been reported to police, RPDAS will send the result of analysis to the investigating member's work unit manager. The work unit manager must record the result of analysis and ensure the collision file is completed.
- Where the collision has not been reported to police, RPDAS will send the result of analysis and statement of conveyance to the work unit manager nearest to where the person from whom the sample was taken lives. They must ensure the collision is reported and fully investigated. If the investigation reveals that the sample was not obtained as the result of a motor vehicle collision, refer to Interview Coversheet 3C and follow instructions.

15.10 *Blood tests*

Police may require the person to undergo a blood test where they are unable to obtain a breath analysis or an OFT. A Forensic Medical Officer should be used where practicable. The person may also request a blood test; follow section 15.7 of this policy.

15.11 *Charges resulting from blood analysis after collision*

In addition to the requirements in **VPMP Briefs of evidence**, the brief of evidence must contain:

- proof of actual time of collision and that the person from whom the sample was taken was the driver
- information relating to consumption of alcohol or drug/s, before and if relevant, after collision
- statement of conveyance
- result of analysis
- notice of immediate suspension under Part 6B or 6C (if applicable)
- certificate of approved analyst; retain original for production in court
- a BAC read back, where the blood test is conducted more than three hours after the time of the collision.

15.12 *Driver permanently incapacitated*

Where a driver injured in a collision has exceeded the prescribed concentration of alcohol or drugs and it is unlikely they will be able to appear in court in the foreseeable future:

- prepare the collision file and brief of evidence as normal
- obtain a statement from a qualified medical practitioner that the injuries suffered would prevent the person from driving a motor vehicle, or their mental impairment would prevent them from understanding the nature of the charges and court process

- forward the file to RPDAS for advice
- if prosecution is authorised, obtain a warrant and forward electronically to the Police Enquiry Service at PEDSD-WARRANTS-UNIT-MGR and execute the warrant when the person recovers. The original warrant should be stored at the originating work unit. See **VPM Arrests and warrants to arrest** for more information.
- send a report to VicRoads seeking cancellation of the person's driver licence or permit.

15.13 Authorisation of briefs

See **VPMP Briefs of evidence**.

16. Rail Safety Workers

16.1 Legislation

- Specified railway and tramway employees are defined in the legislation as rail safety workers. In accordance with s.128, *Rail Safety National Law (Victoria)*, a rail safety worker must not carry out, or attempt to carry out, rail safety work while:
 - there is present in his or her blood the prescribed concentration of alcohol; or
 - a prescribed drug is present in his or her oral fluid or blood; or
 - so much under the influence of alcohol or a drug as to be incapable of effectively discharging a function or duty of a rail safety worker.
- In accordance with Division 3, *Rail Safety National Law Application Act 2013*, a police member (an authorised person under this section) may at any time require a rail safety worker to submit to testing by means of a preliminary breath test or breath analysis (or both) who:
 - is about to carry out rail safety work
 - is carrying out rail safety work
 - is attempting to carry out rail safety work
 - is still on railway premises after carrying out rail safety work
 - is involved in a prescribed notifiable occurrence as defined by the *Rail Safety National Law National Regulations 2012*.
- As defined in the *Rail Safety National Law National Regulations*, a "notifiable occurrence" is an accident or incident associated with railway operations:
 - (a) that has, or could have, caused
 - (i) significant property damage; or
 - (ii) serious injury; or
 - (iii) death; or
 - (b) that is, or is of a class that is, prescribed by the national regulations to be a notifiable occurrence or class of notifiable occurrence, but does not include an accident or incident, or class of accident or incident, that is prescribed by the national regulations not to be a notifiable occurrence.

16.2 Procedure

- An authorised breath analysis instrument operator is to conduct the breath test and an Authorised Officer must conduct any OFT. If a rail safety officer has conducted

the screening test, that officer is to be present to make the formal demand to furnish a sample of breath or oral fluid.

- Where the test result indicates any concentration of alcohol or presence of a prescribed drug and a public transport company representative is not present, notify Police Communications before removing the rail safety worker from the scene.
- Police Communications will notify the relevant railway or tramway operations centre to arrange for a replacement worker. The worker testing positive should not be removed until the replacement arrives.

16.3 Blood tests

When making a demand under s.126 or s.127, *Rail Safety National Law (Victoria)*, members must ensure that they advise the affected driver of each individual requirement including the requirement to:

- accompany the member to the nominated place
- remain there:
 - until the blood test is completed or
 - for a period of three hours after the notifiable occurrence or the carrying out of rail safety work, whichever occurs sooner

17. Foreign representatives

- Police have the authority to stop any motor vehicle and request the driver, including diplomatic and consular officials and their dependants, to undertake an alcohol or drug screening test. Refusal to undertake a screening test will be treated as an offence at the highest range.
- A request to stop and submit to a screening test does not constitute 'detention' within the meaning of the Vienna Convention on Diplomatic Relations or involve, at that point, any question of immunity.
- The immunity of consular officials is limited to acts performed in the exercise of their consular functions. Driving a motor vehicle is outside the scope of consular functions and so consular immunity does not apply.
- Failure to comply with a request to undergo an alcohol or drug screening test is a failure to respect and comply with the law (Article 55 of the Vienna Convention on Consular Relations). Dependants of consular officials have no immunity and can be arrested or detained. Consular employees (administrative or technical service staff) can also be arrested or detained.
- Other foreign representatives are required to comply with legislation.
- Do not allow a driver to continue driving if the safety of the public would be endangered; contact relevant consulate or family member to escort driver away.
- Refer to "Immunities of Foreign Representatives" via the Department of Foreign Affairs and Trade website for further information.

Motor vehicle impoundment

18. Legislation

18.1 Who may seize a vehicle for impoundment?

Police may impound a motor vehicle in accordance with Part 6A, RSA.

18.2 Relevant offences

A motor vehicle may be seized or required to be surrendered when a police member believes on reasonable grounds that the vehicle is being or has been used in the commission of a relevant offence as defined in s.84C, RSA. A brief of evidence must be submitted when a motor vehicle is impounded for any relevant offence. The following table details relevant offences and options for police members:

Relevant Offences	
Members should impound, unless compelling reasons exist not to	
Relevant offence	Section/Act
Drive whilst disqualified or suspended (does not include Sheriffs / Infringements Act suspension).	s.30(1), RSA
Unlicensed driving (does not include expired – fail to renew).	s.18(1), RSA
Unaccompanied learner driver (where this a substantive offence, this provision only applies to adult learner permit holders)	s.18AB(1), RSA
Dangerous or negligent driving whilst pursued by police.	s.319AA, <i>Crimes Act 1958</i>
- Intentionally exposes an on duty emergency/custodial worker to risk of safety by driving. - Aggravated - Intentionally exposes an on duty emergency/custodial worker to risk of safety: (1)(b) damages emergency vehicle or (1)(c) offending is connected with committing another indictable offence punishable by 10 years or more (cannot impound stolen vehicles - consider evidentiary seizure).	s.317AC, <i>Crimes Act</i> s.317AD, <i>Crimes Act</i>
- Recklessly exposes an on duty emergency/custodial worker to risk of safety by driving. - Aggravated - Recklessly exposes an on duty emergency/custodial worker to risk of safety: (1)(b) damages emergency vehicle or (1)(c) offending is connected with committing another indictable offence punishable by 10 years or more (cannot impound stolen vehicles - consider evidentiary seizure). - Damage to emergency services vehicle by reckless driving.	s.317AE, <i>Crimes Act</i> s.317AF, <i>Crimes Act</i> s.317AG, <i>Crimes Act</i>
Drink driving offence with BAC 0.10 or more.	s.49(1)(b), (f) or (g), RSA

Relevant Offences	
Members should impound, unless compelling reasons exist not to	
Relevant offence	Section/Act
Combined drug/drink driving offence with BAC 0.10 or more.	s.49(1)(bc) or (j), RSA
Drive in breach of alcohol interlock condition.	s.50AAD(1), RSA
Drive at a speed dangerous in circumstances involving: - improper use of a motor vehicle 45kph or more over the applicable speed limit 145kph or more in a 110kph zone.	s.64, RSA
Driving when directed to stop by police (driver identity must be confirmed).	s.64A(1), RSA
Improper use of a motor vehicle — the driving of a motor vehicle in a manner which intentionally causes the vehicle to undergo a loss of traction by one or more wheels.	s.65A, RSA
Careless driving involving improper use of a motor vehicle s.65(1) RSA.	s.65, RSA
Exceeding the speed limit by 45kph or more over the posted limit or drive at 145kph or more in a 110kph zone.	r.20, <i>Road Safety Road Rules</i>
Heavy vehicle - exceed speed limit by 45kph or more over the posted limit or drive at 145kph or more in a 110kph zone.	s.65B, RSA
Riding a miniaturised motor cycle on a road or road related area (identity is not required to impound for this offence).	s.65C(1), RSA
Organising, managing or engaging in a race or speed trial without authorisation.	s.68, RSA
Deliberately or recklessly entering a level crossing when: - warning lights or bells are operating - a barrier is closed or moving - a train or tram is on or entering the crossing - a train or tram approaching the crossing can be seen and is sounding a warning - the vehicle cannot drive through due to the roadway ahead or crossing being blocked.	s.68B, RSA
Overloading - where the number of passengers exceeds the number of available seating positions fitted with seatbelts. This does not include P1 Passenger restrictions.	266(1), 268(4A) or 268(4B) <i>Road Safety Road Rules</i>
Either of the following involving improper use of a motor vehicle: - unnecessary noise and smoke - failure to have proper control of a motor vehicle.	r.291 r.297 <i>Road Safety Road Rules</i>

Relevant Offences	
Members should impound, unless compelling reasons exist not to	
Relevant offence	Section/Act
PRIOR OFFENCE REQUIRED: in the six years immediately before the current offence the driver has committed the same offence or any other relevant offence (<i>date of offence – not conviction</i>) in the State of Victoria only	
Drug driving (exceed prescribed concentration of drug).	s.49(1) (bb), (h) or (i), RSA
Drink driving offence, or combined drink/drug driving offence (full license) where BAC is less than 0.10.	s.49(1)(b), (bc), (f), (g) or (j), RSA
Drink driving offence, or combined drink/drug driving offence (s.52) where BAC is greater than zero.	s.49(1)(b), (bc), (f), (g) or (j), RSA

18.3 *Application of Council by laws*

Relevant offences in the RSA take precedence over offences detected under local Council by laws, for example:

- RSA takes precedence – disqualified rider in charge of an unregistered motor cycle or other recreational vehicle, detected on a highway
- Council by laws applicable – disqualified rider in charge of an unregistered motor cycle or other recreational vehicle detected on parkland or a reserve (not a highway).

18.4 *Where a vehicle may be seized*

A motor vehicle may be seized, for the purposes of impoundment, immobilisation or forfeiture from a:

- public place
- place that is not a public place with the consent of the owner or occupier of that place
- place that is not a public place without the consent of the owner or occupier of that place following a search of that place in accordance with s.84GA, RSA
- place that is not a public place with a search and seizure warrant (e.g. s.465, *Crimes Act*).

18.5 *Act of seizing the vehicle*

A vehicle may be seized by:

- requiring the driver to stop the vehicle and leave it stationary
- entering the vehicle, using reasonable force if necessary, and seizing the vehicle
- directing any person in possession of the keys to surrender those keys
- if the keys are not reasonably available, neutralising any feature impeding seizure of the vehicle and starting the vehicle by another means.

18.6 Time limits on seizure

A vehicle may be seized within:

- 48 hours of the alleged commission of the relevant offence
- ten days after the expiry of the period specified on a Notice to Surrender Motor Vehicle Form (Section 84H) [Form 1256]
- anytime when acting under an impoundment/immobilisation/forfeiture order and the vehicle was not surrendered, in accordance with ss.84G(1) and (3), 84GB and 84I, RSA (s.84ZC RSA)
- the period specified in a search and seizure warrant.

18.7 Time period to hold the vehicle

A vehicle is held for a period of 30 days beginning with the seizure or surrender of the vehicle under ss.84G or 84H, RSA.

19. Seizing a vehicle

Options and considerations for seizing on detection of a relevant offence	
Time Period	Options
Committed within the previous 48 hours	• Seize the vehicle for immediate impoundment. • Serve a notice requiring the vehicle to be surrendered for impoundment. • Apply for search and seizure warrant. • Take any other action without causing the vehicle to be seized and/or impounded.
Committed more than 48 hours ago but less than 10 days prior	• Serve a notice requiring the vehicle to be surrendered for impoundment. • Take any other action without causing the vehicle to be seized and/or impounded.
Within 42 days of detection by a prescribed detection device	• Serve a notice requiring the vehicle to be surrendered for impoundment. • Take any other action without causing the vehicle to be seized and/or impounded.
Within 42 days of the commission of an offence against s.64A(1), RSA or s.319AA, <i>Crimes Act</i>	• Serve a notice requiring the vehicle to be surrendered for impoundment. • Take any other action without causing the vehicle to be seized and/or impounded.
At any time after the charge sheet is filed but no later than 3 months after the offence is committed	Where a blood sample or oral fluid is taken for drink or drug driving: • serve a notice requiring the vehicle to be surrendered for impoundment • take any other action without causing the vehicle to be seized and/or impounded.
Considerations – seizure or surrender	

When deciding whether to seize or require the surrender of a motor vehicle	• Circumstances of the offence. • Driver's history. • Who owns the vehicle – the following must not be impounded: – vehicles identified as stolen – short term hire vehicles. • Type of vehicle. • Accessibility to towing and storage. • Impact of impounding the vehicle – including community expectations.
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Process for seizing on detection of a relevant offence

Member	Process
Member seizing vehicle	• Conduct LEAP checks to confirm driver history and vehicle ownership. • Ensure identity of the vehicle has been confirmed and check the registration displayed matches the VIN. • Obtain authority from one of the following: – divisional patrol supervisor (265) – any senior sergeant or above – a sergeant where none of the above are available – for RPDAS operations, an independent RPDAS sergeant. • Request a tow for vehicle impoundment via Police Communications or other procedure outlined in an operation order. • Complete and serve copies of Motor Vehicle Impoundment/Immobilisation Notice (s.84K, RSA) [Form 1255], including the Police Communications advice of designated costs. • Ensure personal property is removed from the vehicle; police should not take possession of this property unless as evidence or as a last resort. • Remain with the motor vehicle until the tow arrives. • Note any pre-existing damage to the vehicle: – record on Form 1255 Part B; invite driver to countersign – show pre-existing damage to tow operator; have them sign Form 1255 Part B – photograph damage if necessary. • Vehicles with significant damage, that are leaking fluid (other than water) or are undriveable should not be impounded – consider the use of a TAC tow if the damage results from a collision. • Note any visible hazards and record on Form 1255 Part B.

	• Sign Authority to Tow and advise of towing location. • Scan and email Form 1255 (Parts A and B) to Vehicle Impoundment Support Unit (VISU) PBEA 'VI-1255-MGR'. • Complete a LEDR MK2 Field Contact Report in line with VPMP Reporting contacts and intelligence selecting the response zone where the vehicle was impounded. Include any further information in the 'Remarks and Additional Information' field which may be of assistance to DIU, for example: – driver demeanour – circumstances of offence – location of offence.
Member authorising seizure	• Before authorising immediate seizure, consider: – whether towing may damage the vehicle; consider using surrender provisions – if there are reasonable grounds to believe that the vehicle was used in the commission of the relevant offence – whether ownership has been confirmed – whether there is enough admissible evidence to prove the relevant offence. • Scan and email a copy of the completed Motor Vehicle Impoundment Authorising Checklist [Form 1408] to VISU PBEA 'VI-1255-MGR'.
VISU	• Provide a copy to the Senior Police Officer within 48 hours of the impoundment to enable review. • Process receipt of the vehicle according to internal guidelines.
Senior Police Officer conducting review	• Review the impoundment decision. • Examine Form 1255. • If authorising early release of the vehicle: – notify the registered operator of the vehicle, VISU and the member who initiated the impoundment and outline the reasons for the early release – decide whether to waive designated costs.

20. Powers to search for a vehicle

In accordance with s.84GA, RSA a police member may perform the following actions to search for, gain access to and seize a vehicle believed to be involved in a relevant offence:

Situation	Action	Authority
To seize a vehicle	Members may enter and search: • the garage address for that motor vehicle; or • any land or premises, or any part land or premises, where the vehicle is believed to	Without a warrant and without consent, in accordance with s.84GA, RSA.

	be present (at that time or from time to time).	
	Members are not authorised to: • use force • enter business premises outside business hours • enter any part of a residential building • enter any part of any land if the entrance is locked • open any locked door to any building on the land.	Warrant needed for these actions.
In order to search for or gain access to a vehicle	Members may: • open unlocked doors, panels, objects or other things • open unlocked places • move, but not take away, anything that is not locked or sealed.	Without a warrant and without consent, in accordance with s.84GA, RSA.
	Members are not authorised to: • use force • enter business premises outside business hours • enter any part of building if that part is used for residential purposes • enter any part of any land or premises if the entrance is locked • open any locked door to any building on the land.	Warrant needed for these actions.

21. Powers to direct a person to provide the location of a vehicle

- In accordance with s.84GB, RSA a member may direct a person to provide the location of a vehicle if:
 - the person is 18 years of age or over
 - both the person and the police member are present at the garage or premises where the motor vehicle is believed to be present (at the time or from time to time).
- The person is required to comply with this direction, even if the information provided may either:
 - incriminate them
 - make them liable to pay a penalty.
- The information obtained is only admissible in evidence against the person for offences for false or misleading statements or offences under s.84GB, RSA.

22. Seizing a miniaturised motor cycle

22.1 Definition

Miniaturised motor cycles, also known as 'monkey bikes', are usually much smaller than a normal motor cycle. Section 3(1), RSA defines them as a motor vehicle with 2 axles that has an internal combustion engine or electric motors and is capable of a top speed in excess of 25kph, that:

- has not been certified through the Commonwealth Road Vehicle Certification System
- has not been conditionally registered by the Secretary to the Department of Transport
- is not excluded from the definition of motor vehicle.

22.2 Offence and Seizure

- A person responsible for a miniaturised motor cycle being ridden on a road or road related area commits an offence under s.65C(1), RSA.
- The person responsible is the rider or, if the rider is not identified, the owner.
- An offence under s.65C(1), RSA is a relevant offence. Members should impound a miniaturised motor cycle ridden on a road or road related area.
- Miniaturised motor cycles are seized/impounded in a similar fashion to other motor vehicles.
- The identity of the driver/owner is not required for the purpose of seizing a miniaturised motor cycle.

22.3 Disposal – owner not known

- Where a miniaturised motor cycle has been impounded and the identity of the rider or owner is unknown, Victoria Police must make reasonable enquiries to identify the owner.
- Prior to disposal, Victoria Police must publish on a Victoria Police website, a photograph of the miniaturised motor cycle, including;
 - the location where the miniaturised motor cycle was impounded
 - a statement that the miniaturised motor cycle was ridden on a road or road related in contravention of s.65C(1), RSA and that the owner is liable for that offence unless it was stolen or hired or ridden without the knowledge or consent of the owner.
- The notice must also display the make and model of the motor vehicle, or if that cannot be established, as much information that can reasonably be provided to identify the motor vehicle.
- After 14 days of publication, if the owner remains unknown, the miniaturised motor cycle is deemed abandoned and will be disposed of by VISU.
- For the purpose of disposal under this section, VISU will be responsible for the publication of notices on the Victoria Police website. For further enquiries relating to the impoundment or publication of miniaturised motor cycles, members should contact VISU.

23. Surrender of vehicle

23.1 *Where a vehicle is to be surrendered*

- Metropolitan – VISU.
- Country – nominated police station; later towed by contractor for storage.
- Court order – location specified in order.

The following table details the process for surrendering vehicles:

Process for surrender	
Member	Process
Member requiring vehicle to be surrendered	• Conduct LEAP checks to confirm driver history and vehicle ownership. • Ensure identity of the vehicle has been confirmed; check the registration displayed matches the VIN. • Obtain authority from: – divisional patrol supervisor – any senior sergeant – Area of Operations Commander or other person specified in operation order – a sergeant where none of the above are available. • Vehicles with significant damage, that are leaking fluid (other than water) or are undriveable should not be impounded – consider the use of a TAC tow if the damage results from a collision. • Decide where to have vehicle surrendered: – Country – contact intended surrender location to identify a suitable time and date for surrender, ensuring the presence of a member for receipt of vehicle – Metropolitan – can be surrendered on any week day (excluding Public holidays) between 10AM and 4PM. • Complete and distribute/serve copies of Notice to Surrender Motor Vehicle (s.84H, RSA) [Form 1256]. • After service of a Notice to Surrender Motor Vehicle, complete a LEDR MK2 Field Contact Report in line with VPMP Reporting contacts and intelligence selecting the response zone where the relevant offence occurred. Include any further information in the 'Remarks and Additional Information' field which may be of assistance to DIU, for example: – driver demeanour – circumstances of offence – location of offence – location of surrender.
Member receiving surrendered vehicle	• Complete and distribute Form 1255 Part A. • Inspect the vehicle and complete Form 1255 Part B.

	• Ensure the driver has removed personal property; property left in the vehicle cannot be removed during period of impoundment. • Lodge the vehicle in accordance with VISU operating procedures. • Notify the member requesting surrender. • Arrange an Officer review (see process for seizure). • If a country location: – comply with above as applicable – contact Police Communications and arrange an impoundment tow – record designated costs and tow contractor.
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23.2 Vehicle not surrendered

Action	Process
Notice to Surrender	• VISU will contact the member requesting surrender. Up to ten days after the date of surrender police may seize the vehicle from a public place or any other place with consent of the owner/occupier or in accordance with s.84GA, RSA. • If the vehicle is not surrendered, within ten days after the notice expiring, a member may exercise any power under ss.84F-84GB, RSA to seize the motor vehicle. Where circumstances require, consider a search and seizure warrant. • Consider charges of failing to surrender under s.84H(3A), RSA.
Impoundment/ Immobilisation/ Forfeiture Order	• VISU will contact the member who applied for the order. Police may at any time seize the vehicle from a public place or any other place with consent of the owner/occupier or in accordance with s.84GA, RSA, or under warrant (s.84G(1), s.84G(3) and s.84GA, RSA). • A member: – may direct a person to provide the location of a vehicle, s.84GB, RSA – consider charges of failing to surrender under s.84S(4), RSA.

24. Warrant to search and seize

Any police member may seek a search and seizure warrant under s.84ZH, RSA when a vehicle is subject to seizure and is:

- on private property where access is locked and/or consent of the owner/occupier is not given
- located at any other place where the owner/occupier does not consent to police entering the property to search and seize the vehicle, and search and seize powers under s.84GA and/or s.84G, RSA do not exist.

25. Enforcement and court processes

Enforcement and court processes for vehicle impoundment	
Situation	Process
Brief of Evidence	- Is to be submitted for all offences. - Submit for authorisation within two months. - Record at the bottom of the information narrative and in the section/clause box on charges "improper use" (if this is the relevant offence) to enable recording by court and VicRoads.
Diversion	Not recommended.
Detection by prescribed detection device (i.e. camera)	TCO can provide assistance and support by: - confirming eligibility of offences for investigation by local Highway Patrol - forwarding a file for investigation to the Highway Patrol nearest the registered address of the operator - preparing the brief of evidence - forwarding the brief of evidence to the investigator for local approval.
Withdrawal of charges	Charges should not be withdrawn prior to court because Victoria Police may be liable for impoundment costs.
Consolidation	- Identify whether there are any outstanding relevant offences charges. - Contact informant/s to consolidate hearings. - An application for further impoundment of forfeiture can be made if a driver has been charged with two or more relevant offences.
Prior convictions	Attach to brief.

Enforcement and court processes for vehicle impoundment	
Situation	Process
Application for forfeiture or further impoundment	- Considering the offenders driving history, VISU must determine whether to proceed: - with an application for impoundment, immobilisation or forfeiture order pursuant to s.84S(1), RSA where the driver is found guilty of a relevant offence and has committed one or more relevant offences within the preceding six years; or - with a forfeiture order pursuant to s.84T(1), RSA where the driver has committed two or more relevant offences within the preceding six years - against the original offending vehicle or a substituted vehicle. - Only VISU is permitted to complete the application. Complete either (as applicable): - Notice of Application for an Impoundment or Immobilisation Order / Forfeiture Order (Section 84W, RSA) [Form 1257] - Notice of Application for an Impoundment or Immobilisation Order/Forfeiture Order (s.84Y, RSA) [1258]. - Assign a court date at three months after the due date the vehicle became eligible for release. Notify the informant and informant's work unit manager. - Serve a copy on the driver, registered operator, VicRoads and anyone who has an interest in the vehicle (at least 28 days before the application date). - Complete Vehicle Impoundment Order/Forfeiture Order Application (ss.84U and 84V, RSA) [Form 1263]. - Complete requisite affidavits of service of notices and send all relevant application paperwork to the informant. Informants should not prepare their own applications. Contact VISU for further details. - The informant or assigned police member must: - attach the completed application paperwork to the brief of evidence and submit it for authorisation - once authorised, issue and serve process and send the brief to the prosecutor. - The prosecutor must make application after finding of guilt.
Application for disposal order	Where the accused fails to appear and the matter is adjourned sine die and a warrant of apprehension is issued for the accused: VISU must:

Enforcement and court processes for vehicle impoundment	
Situation	Process
	– complete a Notice of Application for a Disposal Order (Section 84ZU, RSA) [Form 1257A] – serve a copy on the driver, registered operator, VicRoads and anyone who has an interest in the vehicle (at least 28 days before making the application) – complete a Vehicle Disposal Order Application (s.84ZV, RSA) [Form 1263A] – forward the application to the prosecutor. • The Prosecutor must make the application.
Vehicle substitution	• Police may apply to the court for forfeiture / impoundment of a substituted vehicle where the vehicle used in the commission of the relevant offence is not registered to the offending driver. • Vehicle substitutions are made in conjunction with applications for further impoundment or forfeiture. • VISU must complete Form 1263 indicating the vehicle that was used in the commission of the offence and the vehicle that is sought to be substituted for this vehicle.
If Impoundment/ forfeiture/disposal order is granted	• VISU must: – liaise with the court and obtain the result and/or court extract – forward the court order extract to the place of surrender or retain it at VISU. • The member receiving vehicle must follow surrender or disposal process.
Appeal	Notify VISU if accused lodges a notice of appeal
Finding of not guilty	• The Prosecutor must notify the informant, assigned police member or VISU Sergeant. • The assigned member, informant or VISU Sergeant must notify VISU. • Victoria Police must refund any designated costs paid on application by the accused. • Victoria Police must release the vehicle if still under impoundment.

26. Non payment or non collection

- A vehicle can be impounded until designated costs are paid.
- A vehicle may be disposed of according to section 27 of this policy.

27. Disposal of vehicles

27.1 Legislation

The delegate (refer to Instrument of Delegation RP13) may sell by public auction or tender, or otherwise dispose of vehicles by destruction or donation to a recognised emergency service or rescue agency. Disposal is subject to the following conditions:

- in accordance with Part 6A, RSA the impounded vehicle either:
 - is deemed abandoned
 - is subject to a forfeiture or disposal order
 - remains uncollected for two months or more after the eligible release date.
- the method of disposal is to be determined by having regard to:
 - the market value of the vehicle
 - the method of disposal most likely to be in the public interest
 - the safety rating of the vehicle, as measured in accordance with the Australasian New Car Assessment Program or Used Car Safety Rating
 - whether the vehicle has undergone any illegal modifications and, if so, the difficulty involved in returning the vehicle to an unmodified state.
- property left inside forfeited or uncollected vehicles may only be disposed of after reasonable efforts have been made to return them.

This section does not relate to the disposal of miniaturised motor cycles; refer to section 22 of this policy.

27.2 Process for disposal of vehicles

Prior to the delegate disposing of an uncollected motor vehicle in the circumstances listed below, all court matters relating to the seizure must be finalised.

Process for disposal of impounded and abandoned vehicles	
Situation	VISU Responsibilities
Uncollected motor vehicle deemed abandoned	• Monitor the status of every impounded/immobilised vehicle. • Report daily to the OIC, VISU on all vehicles that remain uncollected seven days after becoming eligible for release. • Complete a Notice of Intention to Deem a Motor Vehicle Abandoned (s.84ZU, RSA) [Form 1428]. • Serve a copy on the driver, registered operator, VicRoads and anyone who has an interest on the vehicle. • Complete a vehicle disposal inspection and Used Car Safety Rating. • Notify the delegate.
Motor vehicle subject to forfeiture or disposal order	• Obtain a court extract. • Complete a vehicle disposal inspection and Used Car Safety Rating assessment. • Notify the delegate.

Motor vehicle remains uncollected and is not deemed abandoned or subject to forfeiture or disposal order	• Monitor the status of every impounded/immobilised vehicle. • Report daily to the OIC, VISU on all vehicles that remain uncollected 45 days after becoming eligible for release. • Monitor the court process, all court matters relating to the seizure must be finalised. • Obtain a court extract. • Complete a vehicle disposal inspection and Used Car Safety Rating.
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28. Personal Property Securities Register

- The OIC, VISU is responsible for compliance with Part 6A, RSA in relation to the making, changing and removal of notifications to the Commonwealth Personal Property Securities Register (PPSR).
- Notifications to the PPSR are made in accordance with this policy, the RSA and *Personal Property Securities Act 2009 (Cth)*.

Hoon file investigation

29. Investigation process

Upon receipt of an allocated TCO Hoon File by a nominated work unit:

- the work unit manager must:
 - conduct a search of Interpose/Leap for related incidents/offending
 - liaise with relevant HWP/Investigating members
 - ensure Hoon referral is investigated within impound time frame
 - ensure all avenues of enquiry have been exhausted
 - manage investigation via Interpose and endorse appropriate action for returning to TCO.
- the investigating member must:
 - identify the driver
 - submit a Vehicle Whereabouts Desired [Form L13] if required
 - interview the offender
 - impound the vehicle where appropriate
 - make relevant enquires within impound time frame
 - update the investigation via Interpose with relevant enquires and documents for approval by a supervisor.

Heavy vehicles

30. Work diaries

The driver of a fatigue regulated heavy vehicle must keep a record of journeys made in a work diary. A police member may inspect the work diary.

31. Vehicle mass tolerances

Warnings for vehicle mass tolerances should not be issued.

32. Speed offences

- Where a heavy vehicle or bus is detected travelling at an alleged speed exceeding 105 km/h, members should issue a Defect Notice [Form 527A] where a heavy vehicle or a bus with a gross vehicle mass over 14.5 tonnes is both:
 - detected travelling at an alleged speed of 105 km/h or more on a flat road or an uphill gradient
 - required to be speed limited per Australian Design Rule 65.
- The defect notice should:
 - specify that the speed limiter is to be made operational
 - include the words "certificate of compliance required"
 - allow seven clear days after which time the vehicle must not be used on a road.

Parking offences and moving of vehicles

33. Vehicles causing an obstruction

33.1 *Legislation*

Police may move or cause to be moved any vehicle that is causing an obstruction or danger in certain circumstances. Police have the power to enter the vehicle by force if necessary (s.63A, RSA).

33.2 *Procedure*

- Obtain authority from a Sub-officer before moving the vehicle.
- Move the vehicle to the nearest convenient place.
- If towing is considered necessary to move the vehicle to a convenient place, follow the procedure for towing of a stolen vehicle and 'advice to owner' in **VPM Road policing – general**.
- Where a vehicle has been moved in these circumstances, to enable cost recovery, forward a report and any accounts to the Business Service Centre. Departments must pay initial fees and forward details to Revenue Branch, Financial Services Division. Financial Services Division will recover costs from the owner and compensate Departments.

33.3 *Council Controlled Areas*

It is an offence to park or leave a motor vehicle standing in Council Controlled Areas contrary to the required signs. Before issuing an infringement notice, ensure a current agreement is in place. Police may remove vehicles under s.90F, RSA.

33.4 *Railway level crossings - signal or boom failures*

Notify Police Communications and request attendance of railway staff. Do not direct traffic through or around boom gates unless on instruction from railway staff; divert traffic away and notify Media Unit.

Bicycles

34. Enforcement

Bicycle offences may be dealt with according to **VPM Disposition** by:

- brief of evidence
- infringement notice
- verbal warning
- child caution.

Enforcement tools

35. Automated Number Plate Recognition

- Automated Number Plate Recognition (ANPR) is used to support policing on our roads and related enforcement activities in Victoria Police. The ANPR system can be used to detect stolen vehicles, stolen registration plates, vehicle whereabouts, unauthorised drivers (unlicensed, cancelled, suspended, disqualified), drivers with an interlock condition, unregistered vehicles, high risk recidivist drivers and persons of interest on warrants.
- For further information on and to book ANPR equipment, see the ANPR program intranet site.

36. Unofficial warnings

- Police may issue warnings to offenders for minor traffic offences. All speed limits should be strictly enforced. Refer to **VPM Disposition** regarding official warnings.
- Only give a warning for breaches in excess of published tolerances or for offences of a safety related nature in exceptional circumstances. Do not give a warning for vehicles detected in excess of the allowable vehicle mass tolerances.
- Once a warning has been given, police cannot decide later to proceed by way of summons or Infringement Notice for the offence for which the warning was given.

Related documents

Road Safety Act 1986

Road Safety Road Rules 2017

VPM Road policing – general

VPM Road policing – operations

Further advice and information

For further advice and assistance regarding this policy contact your supervisor or Road Policing Strategy Division, Road Policing Command.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
23/05/22	Reviewed as part of the VPM Review Project. Consolidation of relevant sections from VPMP/VPMG Road policing, VPMG Driving under the influence of alcohol or drugs, VPM Towing vehicles and VPM Motor vehicle impoundment . Inclusion of new policy on hoon file investigations and cloned number plates.	FF-190724
13/05/2025	Inclusion of reference to Digital Driver Licence. Amendments to DIA training refresher courses and process for handling warrants for permanently incapacitated drivers.	FF-267196 FF-144904
24/11/2025	Minor administrative amendment	N/A
09/12/2025	Amendment to the roadside Drug Impairment Assessments process including appropriate safety considerations. Deletion of reference to Form 63. Insertion of reference to submit a Theft and Loss of Property Report Form [Form 1409] for lost, stolen or destroyed items.	FF-233050