

17 September 2018

BACKGROUND

Vehicles parked illegally or abandoned can be problematic for residents, community members and Local Governments as they can occupy much needed parking bays, obstruct parts of roads or verges and impact the safety of the community.

A vehicle which impacts on the community in such a way will be reported to the WA Police Force or the Local Government and will often result in a *Vehicle Has Been Reported* sticker being placed on the vehicle.

The *Vehicle Has Been Reported* sticker was created to notify passers-by that a vehicle has been reported and that the authorities are aware of the vehicle location.

The stickers are used by the WA Police Force and Local Governments to identify that abandoned vehicles or vehicles parked contrary to legislation have been reported and noted for removal.

The sticker provides a visual confirmation that a report has been made and if the vehicle is not claimed or removed then further action will be taken.



ABANDONED VEHICLES - LOCAL GOVERNMENT LEGISLATIVE AUTHORITY

Abandoned Vehicles

Under the *Local Government Act 1995*, Local Governments are provided authority to remove vehicles identified as abandoned.

A vehicle is an abandoned vehicle if it comes within the definition of an abandoned vehicle wreck under Section 3.40A (5) of the Act. An abandoned vehicle wreck is defined as a vehicle –

- (a) *that is not operational; and*
- (b) *the owner of which has not been identified by the Local Government after using all reasonable avenues to do so; and*
- (c) *that has a value that is less than the prescribed value calculated in the prescribed manner.*

Section 3.40A states that an employee authorised for the purpose may remove and impound a vehicle that, in the Local Government's opinion, is an abandoned vehicle wreck. The section further states –

- (2) *If, within 7 days after a vehicle is removed under subsection (1), the owner of the vehicle is identified, the Local Government is to give notice to that person advising that the vehicle may be collected from a place specified during such hours as are specified in the notice.*

CONTACT

(3) A notice is to include a short statement of the effect of subsection (4)(b) and the effect of the relevant provisions of sections 3.46 and 3.47.

(4) If—

(a) after 7 days from the removal of a vehicle under subsection (1), the owner of the vehicle has not been identified; or

(b) after 7 days from being given notice under subsection (2), the owner of the vehicle has not collected the vehicle,

the Local Government may declare that the vehicle is an abandoned vehicle wreck.

Therefore, if the Local Government identifies the owner, the Local Government must notify the owner advising that the vehicle may be collected, the times of collection and the place where it may be collected from. If, after a further seven days from the date of the notice, the owner of the vehicle has not collected the vehicle, the Local Government may declare the vehicle an abandoned vehicle wreck.

A notice would need to state that a Local Government may refuse to allow goods impounded under Section 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the Local Government. A notice would also need to refer to the requirements of section 3.47.



Under section 3.47 –

(2) *The Local Government may sell or otherwise dispose of any vehicle that has not been collected within -*

(b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.

A Local Government would dispose of the property to the highest bidder at public auction. Money received by the Local Government from the sale of a vehicle is to be credited to its trust fund except to the extent required to meet the costs referred to in Section 3.46 and the expenses incurred by the Local Government in selling the vehicle.

Parking Contrary to Legislation

A *Vehicle Has Been Reported* sticker may also be used for vehicles which are parked contrary to legislation or Local Laws relevant to specific Local Governments. In these situations an infringement notice may be applied and the sticker placed on the car if it is identified as abandoned. The sticker identifies that the vehicle has been reported and further action may be taken by the Local Government if the owner fails to remove the vehicle or can't be identified.

A Local Government may also have the ability to deal with a vehicle under other legislative instruments such as a Parking and Parking Facilities Local Law. For example clause 7.6 of the *WALGA template Local Law* states –

(1) *A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the Local Government or unless authorised under any written law.*

(2) *A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.*

A vehicle that is parked in a public place for longer than 24 hours is deemed an obstruction. It may not be abandoned but simply in contravention of the Local Law. Further, any vehicle that is allowed under a Local Law to be parked on a verge with the permission of the property owner adjacent to the verge, will not be an abandoned vehicle. A vehicle that may be considered as parked dangerously would be dealt with under the Local Law.

Further, under the *WALGA Template Property Local Law* –

3.13 (1) *A person shall not without a permit –*

(g) *unless an employee of the Local Government in the course of her or his duties or on an area set aside for that purpose -*

(ii) *park or stop any vehicle on Local Government property.*

Under the Local Law this is an offence which would allow the Local Government to remove a vehicle parked contrary to the Local Law and not under the Act. The Local Government would deal with the matter under the Local Law.

ABANDONED VEHICLES - COMMUNITY ACCESS TO INFORMATION

The *Local Government Act 1995* provides the procedure and justification for the removal of vehicles if they are deemed abandoned or left contrary to a Local Law.

The Local Government should ensure information regarding the removal or impounding of vehicles is available to the community. The information provided should outline:

- Local Laws or regulations which will result in removal or declaration of an abandoned vehicle.
- What happens if the vehicle is declared an abandoned vehicle wreck and the process of removal by the Local Government.
- How the owner can retrieve the vehicle.
- What to do if you no longer want the vehicle.
- What will happen if the vehicle is not collected.
- How the Local Government will dispose of or sell the vehicle.



VEHICLE HAS BEEN REPORTED STICKERS – ORDER PROCESS

Vehicle Has Been Reported stickers assist the WA Police Force and Local Governments by providing visual confirmation that a report has been made about an abandoned vehicle. The stickers also alert the owner of the vehicle and the community that further action will be taken if the vehicle is not claimed or removed.

Stickers can be ordered through WALGA's RoadWise by sending an email to roadwise@walga.asn.au. Please include contact details and postal address.

For further information, please contact WALGA's RoadWise on (08) 9213 2000.

CONTACT