

1993—No. 401

TRAFFIC ACT 1909—REGULATION

(Relating to tow-away charges)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Traffic Act 1909, has been pleased to make the Regulation set forth hereunder.

JOHN HANNAFORD, M.L.C.
Minister for Transport, and Minister for Roads.

Commencement

1. This Regulation commences on 20 August 1993.

Amendments

- 2 The Motor Traffic Regulations 1935 are amended:

- (a) by inserting after Regulation 140 the following Regulation:

Tow-away charge

141. For the purposes of section 26 (4) of the Traffic Act 1909, the prescribed tow-away charge is the charge prescribed in Schedule A.

- (b) by inserting in Schedule A after item 31 the following item:

32. Tow-away charge—section 26 (4) of the Traffic Act 1909..... 85

- (c) by inserting in Table A of Part 1 of Schedule K after the matter relating to section 6A (2) the following matter:

Section 26 (6) 200

EXPLANATORY NOTE**Tow-away charge**

The Traffic (Parking Regulation) Amendment Act 1993 No. 34 inserted section 26 in the Traffic Act 1909. That section permits an authorised officer (defined to mean an employee of the Roads and Traffic Authority or a police officer) to cause the removal of a motor vehicle which is unattended and unlawfully standing in a clearway, transit lane or other prescribed place if, in the opinion of the officer, the vehicle is causing danger to the public or undue traffic congestion or is likely to cause such danger or congestion if it is not removed. The section provides for the vehicle to be removed to a nearby place and for that removal to be reported to the police.

Section 26 (4) of the Traffic Act 1909 provides that the Authority may require the owner of a vehicle or the person who left it unattended to pay a prescribed tow-away charge. That charge is payable if the vehicle was physically removed and also if it was merely attached to a tow-truck for the purpose of being removed but was never actually removed. (The reason for the charge in the second case is that tow-truck operators charge for the service of hooking-up vehicles.) The object of paragraphs (a) and (b) of the amendments made by this Regulation is to fix \$85 as the amount of the tow-away charge.

Penalty notice for failure to pay tow-away charge

Section 26 (6) of the Traffic Act 1909 creates a penalty for failure to pay a tow-away charge within the time specified by the Roads and Traffic Authority. The object of paragraph (c) of this Regulation is to amend the Motor Traffic Regulations 1935 to prescribe the offence created by section 26 (6) for the purposes of section 18B of the Traffic Act 1909. The effect of that amendment will be that penalty notices can be issued in relation to the offence of failure to pay a tow-away charge and that the offence will be covered by the penalty default scheme, that is the scheme under which a failure to pay a penalty imposed by a penalty notice can result in the cancellation of the offender's driver's licence or vehicle registration.
