



New South Wales

# **Tow Truck Amendment Regulation 1998**

under the

**Tow Truck Act 1989**

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Tow Truck Act 1989*.

CARL SCULLY, M.P.,

Minister for Transport

## **Explanatory note**

The objects of this Regulation are as follows:

- (a) to require a tow truck driver to obtain a towing authority before the driver tows a motor vehicle from anywhere within 500 metres of the scene of the accident involving the vehicle.
- (b) to require a tow truck driver to unload or otherwise release a motor vehicle that was towed in accordance with the directions of a police officer, because it was causing an obstruction to traffic, after the motor vehicle has been towed to the nearest place where it does not cause an obstruction, and to obtain a towing authority before the driver tows that motor vehicle from any such place.
- (c) to ensure that in any such towing authority, a place is specified as the address to which the motor vehicle is to be towed.
- (d) to ensure that a notice relating to a towing authority be attached to the motor vehicle being towed in accordance with the towing authority.
- (e) to provide that completed towing authority books be returned to the holder of the licence under which a tow truck is being operated and be kept for 5 years.

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- (f) to prohibit a tow truck driver from attempting to obtain a towing authority for the towing of a motor vehicle if another person has already obtained a towing authority for the towing of that vehicle.
- (g) to ensure that, once a towing authority has been obtained in respect of a particular motor vehicle, the tow truck driver tows the vehicle to the specified destination (or, if the destination is not accessible, to certain other locations) before the driver obtains or attempts to obtain a towing authority for any other vehicle, except where the driver is towing 2 vehicles from the same accident,
- (h) to prohibit tow truck drivers from towing or otherwise removing a motor vehicle from the scene of an accident if to do so would conceal the commission of an offence by the driver of the motor vehicle or impede the investigation of such an offence.
- (i) to provide that once a towing authority has been obtained in respect of a particular motor vehicle, other tow truck drivers must not stand within 500 metres of the scene of the accident without a reasonable excuse.
- (j) to require the holder of an accident operator's licence to keep certain records for 5 years.
- (k) to require the holder of an accident operator's licence to return towing authority books to the Tow Truck Industry Council when the licence is cancelled, suspended or expires.
- (l) to require all licensees to return tow truck number-plates to the Roads and Traffic Authority when their licence is cancelled, suspended or expires.
- (m) to provide for the Tow Truck Industry Council to issue guidelines as to the dress standards of tow truck drivers.
- (n) to require tow truck drivers to comply with every reasonable requirement made by an officer authorised by the Tow Truck Industry Council, or by a police officer or any other emergency services officer,
- (o) to make other amendments to the *Tow Truck Regulation 1990*.

This Regulation is made under the *Tow Truck Act 1989*, including sections 35 and 83 (the general regulation-making power).

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## **Tow Truck Amendment Regulation 1998**

### **1 Name of Regulation**

This Regulation is the *Tow Truck Amendment Regulation 1998*.

### **2 Commencement**

This Regulation commences on 16 November 1998.

### **3 Amendment of Tow Truck Regulation 1990**

The *Tow Truck Regulation 1990* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

## Schedule 1 Amendments

(Clause 3)

### [1] Clause 4 Definitions

Insert at the end of the clause:

- (2) A reference in this Regulation to *the person who is otherwise in charge of the motor vehicle* is a reference to:

- (a) any person who has the consent (or implied consent) of the owner, lessee or driver of the motor vehicle to deal with the towing of the motor vehicle, or
- (b) a police officer, in any case where the owner or driver or the person referred to in paragraph (a) is not present or is not capable of dealing with the towing of the motor vehicle,

but does not include any person who attends (or is in the vicinity of) the scene of an accident to obtain or attempt to obtain the work of towing or repairing a motor vehicle damaged in the accident.

### [2] Clause 7 Requirement for towing authority

Insert "anywhere within 500 metres of" after "from" in clause 7 (1).

### [3] Clause 7 (1A)

Insert after clause 7 (1):

- (1A) A person who tows a motor vehicle on a road or road related area from any place to which the motor vehicle was towed in accordance with the directions of a police officer, as referred to in subclause (1) (b), is also required to obtain a towing authority as provided by this clause.

### [4] Clause 7 (2) (b)

Omit the paragraph. Insert instead:

- (b) must be completed in triplicate, and

**[5] Clause 7 (2A), (2B) and (3)**

Omit clause 7 (3) and (3A). Insert instead:

- (2A) A place must be specified in the towing authority as the address to which the motor vehicle is to be towed.
- (2B) The towing authority must otherwise be completed (to the extent that is reasonably practicable in the circumstances) by inserting the information required by the form.
- (3) The appropriate person to sign a towing authority for the towing of a motor vehicle is the owner or driver of the motor vehicle or the person who is otherwise in charge of the motor vehicle.

**[6] Clause 7 (6)**

Insert after clause 7 (5):

- (6) A person must not, without reasonable excuse, alter a towing authority after it has been signed by the owner or driver of the motor vehicle or the person who is otherwise in charge of the motor vehicle.

Maximum penalty (subclauses (5) and (6)): 5 penalty units.

**[7] Clause 8**

Omit the clause. Insert instead:

**8 Requirements relating to towing authorities**

- (1) A person who, in accordance with clause 7, obtains a completed towing authority must:
  - (a) immediately deliver the duplicate copy of the towing authority to the person who signed it in accordance with clause 7 (3), and

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- (b) as soon as reasonably practicable after completion of the tow to which the towing authority relates, remove the original of the towing authority from the towing authority book and deliver it to the holder of the accident operator's licence under which the tow truck is being operated, and
  - (c) retain the triplicate copy of the towing authority in the towing authority book.
- (2) A person who, in accordance with clause 7, obtains a completed towing authority must also, before towing the motor vehicle, attach to that motor vehicle (in the manner approved by the Council) a notice completed in accordance with subclause (3).
- (3) A person must complete a notice (that is in the form approved by the Council), to the extent that is reasonably practicable in the circumstances, by inserting the following information:
  - (a) the serial number of the towing authority to which it relates.
  - (b) the name of the holder, and the number, of the licence under which the tow truck is authorised to be operated,
  - (c) the name and drivers certificate number, of the person who obtained the completed towing authority.
  - (d) the registered number of the motor vehicle to which the towing authority relates,
  - (e) the address to which the motor vehicle is to be towed.
- (4) A person must not remove a notice that is attached to a motor vehicle in accordance with subclause (2) unless:
  - (a) the person is the insurer of the motor vehicle, or
  - (b) in any case where the motor vehicle is not insured—the person is the owner or driver of the motor vehicle or is the person who is otherwise in charge of the motor vehicle, or
  - (c) the person is acting under the authority of a person referred to in paragraph (a) or (b).

- (5) The holder of the accident operator's licence under which the tow truck is being operated must ensure that each tow truck driver, whose services are being used by the holder of the licence and who is required by clause 7 to obtain a towing authority, complies with this clause.

Maximum penalty (subclauses (1)–(5)): 5 penalty units.

**[8] Clause 10 Towing authority books and notices**

Omit "\$10" from clause 10 (1). Insert instead "\$11".

**[9] Clause 10**

Omit "Maximum penalty: 5 penalty units."

**[10] Clause 10 (6)**

Insert after clause 10 (5):

- (6) Once a towing authority book has been completed, the driver of the tow truck to which the towing authority book relates must deliver the towing authority book to the holder of the accident operator's licence under which the tow truck is being operated.

Maximum penalty (subclauses (2)–(6)): 5 penalty units.

**[11] Clauses 11, 11 A and 12**

Omit clauses 11 and 12. Insert instead:

**11 Restrictions on who may obtain towing authority**

- (1) A person must not obtain, or attempt to obtain, a towing authority for the towing of a motor-vehicle damaged in a motor vehicle accident unless the person is the driver of a tow truck:

- (a) that is being operated under the authority of an accident operator's licence, and
    - (b) that is standing within 500 metres of the scene of the accident.
  - (2) A person must not obtain, or attempt to obtain, a towing authority for the towing of a motor vehicle damaged in a motor vehicle accident if the towing is to be carried out by a tow truck other than a tow truck of which the person is the driver.
  - (3) A person must not obtain, or attempt to obtain, a towing authority for the towing of a motor vehicle damaged in a motor vehicle accident if another person has obtained a towing authority for the towing of that motor vehicle.
- Maximum penalty (subclauses (1)–(3)): 5 penalty units.

**11A Restrictions on when a person may obtain a towing authority**

- (1) A person must not obtain, or attempt to obtain, a towing authority for the towing of a motor vehicle damaged in a motor vehicle accident until any towing authority that the person has obtained for the towing of any other motor vehicle has expired.
- Maximum penalty: 5 penalty units.
- (2) For the purposes of subclause (1), a towing authority has expired if the motor vehicle specified in the towing authority has been towed to a place in accordance with clause 17.

**12 Keeping and production of towing authorities and notices**

- (1) The holder of an accident operator's licence must:
  - (a) keep the following for at least 5 years at the holder's place of business specified in the licence:
    - (i) the original of each completed towing authority that relates to a tow truck operated under the authority of the licence,



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- (ii) any towing authority book that has been provided to the holder in accordance with clause 10 (6), and
  - (b) on demand by an authorised officer or a police officer, produce for inspection any such towing authority or towing authority book kept by the holder or any copy of such an authority to which the holder has reasonable access, and
  - (c) permit the person to whom such a towing authority or towing authority book is produced to make copies of or take extracts from the authority or book or remove the authority or book for the purposes of evidence.
- (2) On expiry, cancellation or surrender of an accident operator's licence, the holder of the licence must return to the Council:
- (a) any completed original towing authority delivered in accordance with clause 8 (1) (b), and
  - (b) any towing authority books issued to the holder, and
  - (c) any notice, as referred to in clause 8, that has not been completed.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

**[12] Clause 15 Unauthorised driving of tow trucks**

Omit clause 15 (1) (b). Insert instead:

- (b) to travel in the tow truck while it is proceeding on a road or road related area to or from the scene of a motor vehicle accident unless that person:
  - (i) was the driver of, or was a passenger in, the motor vehicle being towed, or
  - (ii) is the holder of a drivers certificate who is travelling for the purpose of assisting the driver of the tow truck in carrying out towing work.

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**[13] Clause 16 Restrictions on standing of tow truck**

Omit clause 16 (b). Insert instead:

- (b) to stand within 500 metres of the scene of a motor vehicle accident:
  - (i) for a period longer than that which is reasonably necessary to obtain a towing authority in respect of any damaged motor vehicle for which no such authority has been obtained by another person, or
  - (ii) in any case where a towing authority has already been obtained by another person in respect of the vehicle concerned, without a reasonable excuse.

**[14] Clauses 17, 17A and 17B**

Omit clause 17. Insert instead:

**17 Towing of motor vehicle in accordance with towing authority**

The driver of a tow truck towing a motor vehicle in accordance with a towing authority must cause the motor vehicle to be towed as soon as reasonably practicable from the scene of the accident and by the most reasonably practicable route:

- (a) to the place specified in the towing authority as the address to which the motor vehicle is to be towed. or
- (b) if the place that is specified is not accessible:
  - (i) to the holding yard specified in the accident operator's licence under the authority of which the tow truck is being operated. or
  - (ii) if there is no such holding yard specified. to the nearest place for the safe keeping of motor vehicles available to the driver.

Maximum penalty: 5 penalty units.

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**17A Towing of motor vehicle in accordance with directions of police officer to remove obstruction**

- (1) The driver of a tow truck towing a motor vehicle in accordance with the directions of a police officer, as referred to in clause 7 (1) (b), must unload or otherwise release the motor vehicle after it has been towed to the nearest place where it will not be an unreasonable obstruction to traffic.

Maximum penalty: 5 penalty units.

- (2) Accordingly, the driver must comply with clause 7 (1A) before towing the motor vehicle from that place.

**17B Towing of motor vehicle in circumstances where offence has been committed**

- (1) The driver of a tow truck must not:
- (a) tow or otherwise remove a motor vehicle from the scene of an accident, or
  - (b) coerce, induce or persuade the driver of a motor vehicle to authorise the towing or removal of the motor vehicle from the scene of an accident,

if the driver of the tow truck knows (or would be reasonably expected to know) that the towing or removal of the motor vehicle would conceal the commission of an offence by the driver of the motor vehicle, or would impede the investigation of such an offence.

Maximum penalty: 5 penalty units.

- (2) A person does not commit an offence under subclause (1) if he or she has been directed by a police officer to tow or otherwise remove the motor vehicle concerned.
- (3) Subclause (2) does not affect the requirement to obtain a towing authority in accordance with clause 7.

**[15] Clause 19**

Omit the clause. Insert instead:

**19 Records to be kept of tow trucks, drivers and passengers**

- (1) The holder of an accident operator's licence must, in accordance with this clause, make a record of:
  - (a) the full name, residential address and drivers certificate number of each tow truck driver whose services are used by the holder of the licence. and
  - (b) in relation to each occasion on which a tow truck authorised to be operated under the licence is operated:
    - (i) the date on which the tow truck was operated, and
    - (ii) the name of each person (whether or not a tow truck driver) who operated the tow truck, and
    - (iii) the name of any person who travelled as a passenger in the tow truck, and
    - (iv) the serial number of any towing authority obtained, and
    - (v) the address to which any motor vehicle was towed in accordance with such a towing authority. and
    - (vi) the registered number of any such motor vehicle. and
    - (vii) the location of any accident attended by the tow truck.
- (2) The record must:
  - (a) be in a form approved by the Council, and
  - (b) include particulars of the name and address of the holder of the licence.

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- (3) The holder of the licence must:
- (a) complete the record as soon as practicable after each occasion on which a tow truck is operated, and
  - (b) keep the record, at the holder's place of business specified in the licence, for at least 5 years after the information is recorded, and
  - (c) produce any record so kept on demand for inspection by an authorised officer or a police officer, and
  - (d) permit the person to whom it is produced to make copies of or take extracts from the record or remove the record for the purposes of evidence.
- (4) On expiry, cancellation or surrender of an accident operator's licence, the holder of the licence must provide to the Council any records kept in accordance with this clause.
- (5) The holder of an accident operator's licence must, on demand by an authorised officer or a police officer, provide the officer with the name and address of any tow truck driver whose services have been or are being used by the holder of the licence.
- Maximum penalty (subclauses (1), (3), (4) and (5)): 5 penalty units.

**[16] Clause 20 Notification of changed particulars**

Insert "(subclauses (1) and (2))" after "penalty".

**[17] Clauses 22–24**

Insert after clause 21:

**22 Surrender of licence plates upon expiration of licence**

A person who was the holder of a licence must surrender to the Roads and Traffic Authority or the Commissioner of Police any number-plates issued under section 41 of the Act within 7 days after the expiration, cancellation or surrender of the licence.

Maximum penalty: 5 penalty units.

### **23 Conduct and duties of tow truck drivers**

- (1) The driver of a tow truck that is authorised to be operated under the authority of a licence must:
  - (a) behave in an orderly manner and with civility and propriety while:
    - (i) operating the tow truck, or
    - (ii) attending the scene of an accident, or
    - (iii) complying with a requirement under paragraph (b) or (c). and
  - (b) comply with any reasonable requirement made of the driver by an authorised officer or police officer in relation to the administration of the Act or the regulations. and
  - (c) comply with any reasonable requirement made of the driver by an emergency services officer, within the meaning of section 32A of the *State Emergency and Rescue Management Act 1989*, who is attending the scene of a motor vehicle accident.
- (2) The holder of the licence under which the tow truck is being operated must ensure that each tow truck driver whose services are being used by the holder of the licence complies with subclause (1).

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

### **24 Guidelines relating to dress standards**

- (1) The Council may establish guidelines in relation to dress standards for tow truck drivers.
- (2) A person must comply with any such guidelines.
- (3) The holder of the licence under which the tow truck is being operated must ensure that each tow truck driver whose services are being used by the holder of the licence complies with subclause (2).

Maximum penalty (subclauses (2) and (3)): 5 penalty units.

BY AUTHORITY