

1990 - No. 706

TOW TRUCK ACT 1989 - REGULATION

(Tow Truck Regulation 1990)

NEW SOUTH WALES



[Published in Gazette No. 133 of 26 October 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Tow Truck Act 1989, has been pleased to make the Regulation set forth hereunder.

WAL MURRAY
Deputy Premier and Minister for Roads.

PART 1 - PRELIMINARY

Citation

1. This Regulation may be cited as the Tow Truck Regulation 1990.

Commencement

2. This Regulation commences on 1 November 1990.

Repeal

3. The Tow-truck Regulations 1969 are repealed.

Definitions

4. In this Regulation:

"accident operator's licence" means a licence under the Act that permits the holder of the licence to carry out tow truck operations involving the towing of motor vehicles from the scenes of motor vehicle accidents using tow trucks specified in the licence;

"authorised officer" means a person appointed in writing by the Council to be an authorised officer for the purposes of this Regulation;

"owner", in relation to a motor vehicle, has the same meaning as in the Motor Traffic Regulations 1935;

"the Act" means the Tow Truck Act 1989.

PART 2 - DEFINITION OF TOWING AND TOW TRUCK

Towing

5. Pursuant to paragraph (e) of the definition of "tow" in section 3 (1) of the Act, "tow" includes tow by use of a rigid frame, rigid bar or similar device.

Tow truck

6. The following motor vehicles are prescribed as tow trucks for the purposes of the definition of "tow truck" in section 3 (1) of the Act:

- (a) a motor vehicle fitted with a tilt table-top;
- (b) a motor vehicle fitted with a tilt table-top and winch;
- (c) a motor vehicle fitted with a self-loading table-top which is capable of being detached from that vehicle for the purpose of loading or unloading another vehicle.

PART 3 - TOWING AUTHORITIES

Requirement for towing authority

7. (1) A person who tows a motor vehicle on a public street from the scene of a motor vehicle accident by means of a tow truck is required to obtain a towing authority as provided by this clause, except when:

- (a) the motor vehicle is being towed because it was an unreasonable obstruction to traffic and so damaged that it could not be driven; and
- (b) it is being towed in accordance with the directions of a police officer for the removal of the vehicle to the nearest place where it will not be an unreasonable obstruction to traffic.

(2) The towing authority:

- (a) must be in a form supplied by the Council, forming part of a towing authority book supplied by the Council for use in respect of the tow truck concerned; and

- (b) must be completed (to the extent that is reasonably practicable in the circumstances) by inserting the information required by the form and must be completed in triplicate; and
 - (c) must be signed by the appropriate person, as provided by subclause (3); and
 - (d) must be dealt with as required by clause 8.
- (3) The appropriate person to sign a towing authority for the towing of a motor vehicle is:
- (a) the owner, driver or person in charge of the motor vehicle, unless paragraph (b) applies; or
 - (b) a police officer, if none of the persons referred to in paragraph (a) is present and capable of signing the authority.
- (4) Towing authority forms in a towing authority book must be used consecutively in order of serial number.
- (5) A person must not insert in a towing authority any information which the person knows to be false or misleading in a material particular.

How towing authority is to be dealt with

8. (1) The duplicate copy of a completed towing authority must be delivered:
- (a) immediately, to the person who signed the authority if the person signed as owner, driver or person in charge of the motor vehicle; or
 - (b) in any other case, to the Council within 72 hours of the commencement of the tow to which the towing authority relates.
- (2) The original of a completed towing authority must, as soon as reasonably practicable after completion of the tow to which it relates, be delivered to the holder of the accident operator's licence under the authority of which the tow truck is being operated.

Form of towing authority

9. The form of a towing authority is the form set out in Schedule 1.

Towing authority books

10. (1) On application and payment of a fee of \$10, the Council may issue to the holder of an accident operator's licence a towing authority book (comprising towing authority forms) for each tow truck authorised to be operated under the licence.

(2) The holder of an accident operator's licence must ensure that a towing authority book issued by the Council is provided to the driver of each tow truck being operated under the authority of the licence.

(3) The holder of a drivers certificate must not drive on a public street a tow truck that is being operated under the authority of an accident operator's licence unless the holder is carrying a towing authority book issued by the Council.

(4) The holder of an accident operator's licence must not knowingly cause, permit or induce any person to drive a tow truck in contravention of subclause (3).

(5) The driver of a tow truck must produce any towing authority book in the driver's possession for inspection on demand by an authorised officer or police officer and permit the person to whom it is produced to take extracts from, or to make copies of, any entry in that book.

Maximum penalty: 5 penalty units.

Restrictions on who may obtain towing authority

11. (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 which is:

- (a)** being operated under the authority of an accident operator's licence; and
- (b)** standing at the scene of the accident.

(2) The driver of a tow truck which is being operated under the authority of an accident operator's licence must not obtain or attempt to obtain a towing authority for the towing by any tow truck of a motor vehicle damaged in a motor vehicle accident except the tow truck of which he or she is driver.

Maximum penalty: 5 penalty units.

Retention and production of towing authorities

12. The holder of an accident operator's licence must:

- (a) retain for at least 12 months at the holder's place of business specified in the licence the original of each completed towing authority that relates to a tow truck operated under the authority of the licence; and
- (b) on demand by an authorised officer or a police officer, produce for inspection any such original towing authority retained by the holder.

Maximum penalty: 5 penalty units.

PART 4 - USE OF TOW TRUCKS

Particulars to be displayed on tow truck

13. A person must not drive, stand or use, or allow to be driven, stood or used, on a public street a tow truck that is being operated under the authority of a licence unless there is displayed (by being printed in block letters and figures at least 50 mm high) on the right-hand or off-side of the tow truck and so as to be clearly legible:

- (a) the name of the person who is the holder of the licence under the authority of which that tow truck is operated; and
- (b) the number of the licence.

Maximum penalty: 5 penalty units.

Inspection of tow trucks

14. (1) The Council, a police officer or an authorised officer may, by notice in writing given to a person who is the holder of a licence or drivers certificate, require the person to produce a tow truck under the person's control at a specified place and within a specified time for inspection by the Roads and Traffic Authority for the purpose of determining whether the vehicle is suitable for safe use as a tow truck.

(2) The person must comply with the requirement.

Maximum penalty: 5 penalty units.

Unauthorised driving etc. of tow trucks

15. (1) A person in charge of a tow truck that is being operated under the authority of a licence must not permit any person:

- (a) to drive the tow truck on a public street unless the person in charge is satisfied that that person is the holder of a drivers certificate and the person in charge has inspected the certificate; or
- (b) to travel in the tow truck while it is proceeding on a public street to the scene of a motor vehicle accident or towing a motor vehicle from the scene of a motor vehicle accident unless that person was the driver of, or a passenger in, the motor vehicle; or
- (c) to be employed on or about the tow truck in connection with the operation of the tow truck at or near the scene of a motor vehicle accident unless the person in charge is satisfied that that person is the holder of a drivers certificate and the person in charge has inspected the certificate.

Maximum penalty: 5 penalty units.

(2) Clause (1) (a) does not apply in relation to a tow truck which is:

- (a) being driven solely for a purpose connected with its maintenance, repair or testing; or
- (b) being used for the purpose of moving a motor vehicle pursuant to section 5 of the Road Obstructions (Special Provisions) Act 1979.

Obstruction by tow truck

16. The driver of a tow truck operating under the authority of an accident operator's licence must not permit the tow truck, except to the extent necessary to secure to or on to the tow truck a damaged motor vehicle in respect of which the driver has obtained a towing authority

- (a) to stand on a public street so as to cause an obstruction; or
- (b) to stand at the scene of a motor vehicle accident for a period longer than that which would reasonably be required to obtain a towing authority in respect of a damaged motor vehicle for which no such authority has been obtained by another person.

Maximum penalty: 5 penalty units.

Towing of vehicle where driver incapacitated etc.

17. The driver of a tow truck towing a motor vehicle pursuant to a towing authority signed by a police officer (because of the absence or

incapacity of the owner, driver or person in charge of the motor vehicle) must:

- (a) cause the motor vehicle to be towed to the holding yard specified in the accident operator's licence under the authority of which the tow truck is operating or, if there is no such holding yard specified in the licence, to the nearest place for the safe keeping of motor vehicles available to the driver; or
- (b) if so directed by that police officer, cause the motor vehicle to be towed to the nearest police station or other premises under the control of the Commissioner of Police.

Maximum penalty: 5 penalty units.

PART 5 - MISCELLANEOUS

Fee for certificate

18. A certificate referred to in section 78 (2) of the Act may be issued on the application of any person and payment of a fee of \$15.

Records to be kept

19. (1) The holder of an accident operator's licence must keep a record of all information furnished to the holder or the holder's servants or agents concerning the occurrence of a motor vehicle accident at the scene of which any tow truck operated under the authority of the licence attended.

(2) The record must be in a form approved by the Council and must include:

- (a) particulars of the name and address of the person who furnished the information; and
- (b) the place, date and approximate time of the accident; and
- (c) the registered number of any damaged motor vehicle towed from the scene of the accident by a tow truck operated under the authority of the licence.

(3) The holder of the licence must:

- (a) retain the record, at the holder's place of business specified in the licence, for at least 12 months after the accident concerned; and
- (b) produce any record so retained on demand for inspection by an authorised officer or police officer; and

- (c) permit the person to whom it is produced to make copies of or take extracts from any entry in the record.

Maximum penalty: 5 penalty units.

Notification of changed particulars

20. (1) The holder of a drivers certificate:

- (a) must, within 7 days after any change of the holder's address, give written notification of the change to the Council; and
- (b) must not, except as authorised by paragraph (a), lend or otherwise part with possession of the certificate to any person and must not alter, deface or mutilate the certificate; and
- (c) must, not later than 3 days after the expiration of the certificate, return the expired certificate to the Council.

(2) The holder of a licence must give 14 days prior notice of the holder's intention to change the holder's place of business by giving written notification of the proposed change to the Council and forwarding the licence to the Council for amendment.

Maximum penalty: 5 penalty units.

Appeals

21. For the purposes of sections 25 (3) and 53 (2) of the Act, an appeal must be made not later than 21 days after the date on which notice was given to the appellant by the Council of the relevant Council decision.

SCHEDULE 1 - FORM OF TOWING AUTHORITY
(Cl. 9)

TOWING AUTHORITY
TOW TRUCK ACT 1989

1 Tow Truck Operator

Name and Address

Business Telephone Number

--

Operators Licence Number

--

Tow Truck Registration Number

--

2 Tow Truck Driver

Surname

--

Given Names

--

Drivers Certificate Number

--

3 Vehicle Owner Details

Name and Address

Registration Plate Number

--

Make of Vehicle

--

To be towed from

--

To be towed to

--

4 Authority - Owner/ driver/ person in charge of vehicle or police officer

I authorise this vehicle to be - towed to the above location

towed to and stored at the above location

Signature

--

Name and Address if not owner or Police Officer

--

Date

/ /

Time

--

--

If Police Officer give:

Rank

--

Number

--

Station

--

Original (White)

Duplicate (Blue)

Triplicate (Pink)

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SCHEDULE 1 - FORM OF TOWING AUTHORITY

EXPLANATORY NOTE

The object of this Regulation is to make provision for the following matters under the Tow Truck Act 1989:

- (a) extending the definitions of "towing" and "tow truck" in the Act;
- (b) imposing a requirement that the driver of a tow truck who tows a damaged motor vehicle from the scene of an accident must obtain a towing authority to authorise the tow;
- (c) imposing requirements as to the form of towing authorities, who may sign them, how they are to be completed and how they are to be dealt with;

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- (d) imposing restrictions on who can obtain a towing authority at the scene of an accident;
 - (e) imposing restrictions on the use of tow trucks, including restrictions on who can drive, travel in or be employed on or about a tow truck at an accident scene, on the towing of a vehicle the driver of which is incapacitated and on the standing of tow trucks at accident scenes;
 - (f) imposing requirements concerning the inspection of tow trucks and particulars to be displayed on tow trucks;
 - (g) miscellaneous provisions concerning the keeping of records, notification of changed particulars, and fees.
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