



New South Wales

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

under the

Tow Truck Industry Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Tow Truck Industry Act 1998*.

ERIC ROOZENDAAL, M.L.C.,
Minister for Roads

Explanatory note

The object of this Regulation is to enhance the operation of the *Tow Truck Industry Regulation 1999 (the Regulation)* by making miscellaneous amendments to the Regulation so as:

- (a) to provide greater detail in the definition of *car carrier* in the *Tow Truck Industry Act 1998 (the Act)* and the definition of *accident towing work* in the Regulation, and
- (b) to provide that the imposition, in respect of certain offences specified in the Regulation, of a penalty of 100 or more hours of community service on an applicant for a tow truck operators licence (or a close associate of the applicant) or an applicant for a tow truck drivers certificate disqualifies the applicant in the same way that the imposition of a particular sentence of imprisonment or particular monetary penalty does, but to ensure that current holders of such licences and certificates are not disadvantaged by the change, and
- (c) to omit the requirement that an applicant for a drivers certificate who has not previously held such a certificate (or whose certificate has lapsed or been revoked) provide written references as to the applicant's character, to make consequential amendments, and to make a minor change in respect of the other particulars that must be included in applications for such certificates, and
- (d) to require holders of tow truck operators licences and tow truck drivers certificates to notify the Tow Truck Authority in writing of any change in their residential or postal address and any change in the status of their driver licence, and
- (e) to prescribe certain circumstances in which a towing authorisation is required (in addition to the circumstances in which such an authorisation is required by the Act), and

2006 No 696

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

Explanatory note

- (f) to make further provision with respect to the towing of certain vehicles otherwise than under the authority of a towing authorisation, and
- (g) to impose certain restrictions on the obtaining of certain towing authorisations, and
- (h) to require a person who obtains a towing authority to ensure that the authority complies with certain requirements (and to create the offence of failing to do so), and
- (i) to clarify the nature of certain implements that tow trucks must carry for the removal of accident debris, and
- (j) to increase the maximum penalty for the offence that is committed if the holder of a licence to operate a tow truck does not ensure that the tow truck drivers used by the licensee comply with the requirements relating to the conduct and duties of tow truck drivers set out in clause 64 of the Regulation, and
- (k) to specify the matters that licensed tow truck operators must include in any invoices that they issue in relation to towing work (and to create the offence of including in those invoices any matter that the licensee knows to be false or misleading in a material particular), and
- (l) to provide for the keeping and inspection of copies of such invoices, and
- (m) to enable penalty notices to be issued for certain offences (in addition to the offences for which such notices may currently be issued), and
- (n) to correct an incorrect cross-reference.

This Regulation is made under the *Tow Truck Industry Act 1998*, including section 105 (the general regulation-making power) and the sections specifically referred to in the Regulation.

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

under the

Tow Truck Industry Act 1998

1 Name of Regulation

This Regulation is the *Tow Truck Industry Amendment (Miscellaneous) Regulation 2006*.

2 Commencement

This Regulation commences on 1 December 2006.

3 Amendment of Tow Truck Industry Regulation 1999

The *Tow Truck Industry Regulation 1999* is amended as set out in Schedule 1.

2006 No 696

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 4 Meaning of “tow” and “tow truck”

Omit clause 4 (3). Insert instead:

(3) In subclause (2):

car carrier means a motor vehicle combination that is designed or adapted for use for the transport of motor vehicles, being a combination:

- (a) that is not equipped or fitted with any lifting equipment (whether portable or fixed) to load the motor vehicles to be transported, and
- (b) onto which the motor vehicles to be transported are loaded by travelling along a ramp under their own propulsion.

[2] Clause 7 Offences that disqualify applicants for licences: section 18 (2) (b) and (3) (i)

Omit “imprisonment, or a monetary penalty of more than \$1,000, or both” from clause 7 (1).

Insert instead “imprisonment, a direction under a community service order that the offender perform community service work for 100 or more hours or a monetary penalty of \$1,000 or more, or a combination of those penalties”.

[3] Clause 13 Particulars to be included in drivers certificate applications: section 25 (2) (b)

Insert “current or prospective” before “employer” in clause 13 (1) (b).

[4] Clause 13 (1) (c)

Omit the paragraph.

[5] Clause 13 (1) (d)

Omit “, that has been certified by one of the applicant’s referees to be a true likeness of the applicant”.

[6] Clause 13 (2)

Omit the subclause.

[7] **Clause 15 Offences that disqualify applicants for drivers certificates: section 26 (2) (b)**

Omit “period, or a monetary penalty of more than \$1,000, or both” from clause 15 (1).

Insert instead “period, a direction under a community service order that the offender perform community service work for 100 or more hours or a monetary penalty of \$1,000 or more, or a combination of those penalties”.

[8] **Clause 22B**

Insert after clause 22A:

22B Furnishing of information

A person who is the holder of a licence or drivers certificate must notify the TTA in writing of the following, as soon as practicable after it occurs:

- (a) any change in the person’s residential address,
- (b) any change in the person’s postal address,
- (c) any change in the status of the person’s driver licence.

Maximum penalty: 5 penalty units.

[9] **Part 3**

Omit the heading to the Part. Insert instead:

Part 3 Job allocation scheme and towing authorisations

[10] **Clause 23 Definitions**

Omit the definition of *accident towing work*. Insert instead:

accident towing work means the initial towing or carrying away by a tow truck of a motor vehicle, either from the scene of an accident or from the place to which the motor vehicle has been towed in order to prevent it from being an obstruction to traffic at the scene of the accident, and includes any salvage or recovery work carried out by means of, or by the driver of, a tow truck at the scene of the accident in relation to the motor vehicle.

2006 No 696

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

Schedule 1 Amendments

[11] **Clause 37 Additional circumstances in which towing authorisation required (non-JAS accident towing work)**

Omit clause 37 (1). Insert instead:

- (1) A towing authorisation is required in any circumstances in which accident towing work (other than accident towing work to which a JAS applies) is to be carried out.
- (1A) A person must not carry out, or attempt to carry out, any such accident towing work unless the person has obtained the relevant towing authorisation for the work.

Maximum penalty: 50 penalty units.

Note. Section 49 (1) of the Act provides that a person must not carry out towing work allocated under a JAS unless a towing authorisation for the towing work has been obtained.

[12] **Clause 37 (3)**

Insert after clause 37 (2):

- (3) For the purposes of subclause (2), but without limiting subclause (2) (b):
 - (a) a vehicle that is towed under the authority of that subclause must be towed only to the place specified by the authorised officer or police officer who gave the direction (or, if no place is specified, to the nearest place where the vehicle will not be an obstruction to traffic), and
 - (b) a person is required to obtain an appropriate towing authorisation before towing, or attempting to tow, the vehicle from that place.

[13] **Clause 37A**

Insert after clause 37:

37A Restrictions on obtaining towing authorisations (non-JAS accident towing work)

A person must not obtain, or attempt to obtain, a towing authorisation required by clause 37 (1A) in respect of any motor vehicle:

- (a) if another person has obtained a towing authorisation for the motor vehicle, or
- (b) until after any towing work authorised by a towing authorisation already obtained by the person has been carried out in accordance with the authorisation.

Maximum penalty: 20 penalty units.

[14] Clause 41 Completion of, and dealing with, towing authorisations

Omit clause 41 (1). Insert instead:

- (1) A person who obtains a towing authorisation must ensure that the authorisation:
 - (a) is in the approved form, and
 - (b) is included in a towing authorisation book, and
 - (c) is signed by the person and by the person giving the authorisation, and
 - (d) specifies a place as the place to which the motor vehicle is to be towed, and
 - (e) is otherwise completed (to the extent that is reasonably practicable in the circumstances) by the insertion of the information required by the approved form.

Maximum penalty: 20 penalty units.

[15] Clause 60 Tow truck equipment: section 55 (1)

Insert after clause 60 (2):

- (3) In this clause:

broom means a brush or similar implement of bristles, nylon or twigs with a handle at least 1.2 metres long.

shovel means an implement consisting of a broad metal blade or scoop attached to a handle at least 1.2 metres long and designed for taking up and removing loose matter (such as earth, snow, coal and the like).

[16] Clause 64 Conduct and duties of tow truck drivers

Omit the penalty following clause 64 (2). Insert instead:

Maximum penalty: 10 penalty units.

[17] Clause 65A

Insert after clause 65:

65A Invoices

- (1) A licensee must include the following in any invoice issued by the licensee in relation to towing work:
 - (a) the name of the licensee as shown in the licensee's licence,
 - (b) the business name (if any) of the licensee and the relevant ABN,
 - (c) the name of the person to whom the invoice is issued,

2006 No 696

Tow Truck Industry Amendment (Miscellaneous) Regulation 2006

Schedule 1 Amendments

- (d) a description of the towing work to which the invoice relates,
- (e) such fees (in itemised form) as are charged by the licensee in relation to the following:
 - (i) any salvage relating to the relevant vehicle,
 - (ii) the towing of the relevant vehicle,
 - (iii) any storage of the relevant vehicle,
- (f) any other fee charged by the licensee in relation to the vehicle, fully described and set out in itemised form.

Maximum penalty: 10 penalty units.

- (2) A licensee must not include in the invoice any matter that the licensee knows to be false or misleading in a material particular.
Maximum penalty: 50 penalty units.

- (3) A licensee must:
 - (a) keep at the licensee's place of business (as specified in the licence) a copy of each invoice issued by the licensee for a period of 5 years after its issue, and
 - (b) on demand by an authorised officer or a police officer within that period of 5 years, produce for inspection the copy of any such invoice, and
 - (c) allow the person to whom the copy is produced to take extracts from, or to make copies of, the invoice, or to remove the invoice for the purposes of producing it as evidence in any proceedings.

Maximum penalty: 10 penalty units.

[18] Clause 68 Stand-by tow trucks

Omit "subclause (2)" from clause 68 (4) (a). Insert instead "subclause (3)".

[19] Clause 74

Insert after clause 73:

74 Savings provision—licences and certificates

- (1) Clause 7 as in force immediately before the commencement of the amendment made to that clause by the *Tow Truck Industry Amendment (Miscellaneous) Regulation 2006* continues to apply, for the purposes of section 18 (2) (b) and (3) (i) of the Act, in respect of any offence of which an applicant for a subsequent licence, or a close associate of the applicant, was convicted or found guilty before that amendment commenced.

-
- (2) Clause 15 as in force immediately before the commencement of the amendment made to that clause by the *Tow Truck Industry Amendment (Miscellaneous) Regulation 2006* continues to apply, for the purposes of section 26 (2) (b) of the Act, in respect of any offence of which an applicant for a subsequent drivers certificate was convicted or found guilty before that amendment commenced.

[20] Schedule 1 Penalty notice offences

Insert in appropriate order under the heading “**Offences under this Regulation**”:

Clause 22B	\$110
Clause 37 (1A)	\$1,100
Clause 37A	\$440
Clause 41 (1)	\$440
Clause 65A (1)	\$220
Clause 65A (3)	\$220

[21] Schedule 1, matter relating to clause 68 (4) (b)

Omit “(b)”.