



New South Wales

Tow Truck Industry Regulation 2020

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*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes, the *Tow Truck Industry Regulation 2008* which would otherwise be repealed on 1 September 2021 by section 10(2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters—

- (a) the payment of application fees for licences and drivers certificates,
- (b) the prescribed offences that may disqualify an applicant from holding a licence or drivers certificate for a period of 10 years from the date the applicant was convicted or found guilty of the offence,
- (c) further grounds on which an application for a licence or drivers certificate may be refused,
- (d) further licence and drivers certificate conditions,
- (e) an exemption from holding “on-hook” liability insurance in respect of tow trucks used solely for towing vehicles for wrecking purposes,
- (f) other miscellaneous matters relating to licences and drivers certificates, including the variation of conditions and pending applications,
- (g) the manner in which towing authorisations are to be completed, signed and dealt with,
- (h) additional licence conditions and requirements in relation to holding yards,
- (i) the disposal of all vehicles not claimed from a holding yard after being held for 6 months or more,
- (j) other miscellaneous offences, including offences relating to misuse of licences and drivers certificates, the inspection of tow trucks, conduct of the tow truck drivers, record-keeping, quotations and invoices,
- (k) the offences that are prescribed so that they may be dealt with by way of penalty notice and the penalty payable when dealt with in that manner,
- (l) the exemption of the towing, salvage and storage of certain motor vehicles from the application of the *Tow Truck Industry Act 1998*,
- (m) certain other miscellaneous matters, including exemptions for interstate tow trucks, tow truck drivers and operators.

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

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Tow Truck Industry Regulation 2020

under the

Tow Truck Industry Act 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Tow Truck Industry Regulation 2020*.

2 Commencement

This Regulation commences on 1 July 2020 and is required to be published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Tow Truck Industry Regulation 2008*, which would otherwise be repealed on 1 September 2021 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

exemption certificate means a notice of exemption issued by the Secretary under section 33A(3) of the Act exempting a person in the circumstances specified in Division 4 of Part 2.

fee unit—see Part 3 of Schedule 2.

lifting device means a device or apparatus that is capable of elevating a motor vehicle to a higher position or level.

owner of a motor vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport Act 2013*.

protective clothing policy means the document titled *Tow Truck Industry Protective Clothing Policy* made available on a publicly available website maintained by the Department, as in force from time to time.

the Act means the *Tow Truck Industry Act 1998*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “tow” and “tow truck”

(1) In accordance with 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.

(2) In accordance with section 4(2)(a) of the Act, car carriers are declared not to be **tow trucks** for the purposes of the Act.

(3) In subclause (2)—

car carrier means a motor vehicle combination (including a multi-deck 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 a lifting device (whether portable or fixed) for the purpose of loading the motor vehicles to be transported onto a car deck, and
- (b) onto which the motor vehicles to be transported are loaded by travelling along a ramp under their own propulsion, and
- (c) in the case of a multi-deck combination, may be equipped or fitted with equipment designed only for the purpose of raising and lowering the car decks.

Part 2 Licences and drivers certificates

Division 1 Provisions relating to licences

5 Licence applications

- (1) For the purposes of section 105(2)(a) of the Act, the Secretary may require an applicant for a licence to provide further documents or information in support of the application.

Note. Under section 17(2)(g) of the Act, an application for a licence must contain the particulars required by the approved application form.

- (2) The Secretary may refuse to determine an application for a licence until the further documents or information in support of the application have been provided.

6 Licence application fee

- (1) The Secretary may refuse to determine an application for a licence until the licence application fee is paid.
- (2) If the application is made in respect of a business carried on in partnership, a single licence application fee is payable.
- (3) In this clause—

licence application fee means the fee referred to in section 17(2)(h) of the Act.

7 Discretionary grounds for refusing licence application

For the purposes of section 18(4) of the Act, the Secretary may refuse an application for a licence if—

- (a) a close associate of the applicant has, within the period of 10 years before the application was made—
 - (i) been refused a licence, or
 - (ii) had his or her licence permanently revoked, or
 - (iii) been the subject of disciplinary action under Division 4 of Part 3 of the Act that resulted in the close associate being disqualified from holding a licence or having his or her licence suspended or permanently revoked, or
- (b) the applicant or a close associate of the applicant is subject to—
 - (i) a firearms prohibition order under the *Firearms Act 1996*, or
 - (ii) a weapons prohibition order under the *Weapons Prohibition Act 1998*, or
 - (iii) a serious crime prevention order under the *Crimes (Serious Crime Prevention Orders) Act 2016*, or
- (c) the applicant or a close associate of the applicant has, within the period of 10 years before the application was made, been convicted or been found guilty (but with no conviction being recorded) of the following offences (regardless of whether the offence was committed in New South Wales)—
 - (i) an offence relating to the possession or use of a firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or other weapon,
 - (ii) an offence involving the supply or possession of a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (iii) an offence involving the cultivation (for a commercial purpose), supply or possession of a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*,

- (iv) an offence relating to organised car, boat or trailer rebirthing activities under section 154G of the *Crimes Act 1900*,
 - (v) an offence of dealing with property suspected of being proceeds of crime under section 193C of the *Crimes Act 1900*,
 - (vi) an offence involving the recruitment of another person to carry out or assist in carrying out a criminal activity within the meaning of section 351A of the *Crimes Act 1900*,
 - (vii) an offence involving participation in a criminal group or participation in any criminal activity of a criminal group within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*,
 - (viii) the offence of contravening a serious crime prevention order under section 8 of the *Crimes (Serious Crime Prevention Orders) Act 2016*,
 - (ix) an offence under section 74 of the *Firearms Act 1996* relating to a firearms prohibition order,
 - (x) an offence under section 34 of the *Weapons Prohibition Act 1998* relating to a weapons prohibition order,
 - (xi) an offence involving an assault of any kind against a person,
 - (xii) an offence involving fraud, dishonesty or stealing,
 - (xiii) an offence involving robbery (whether armed or otherwise),
 - (xiv) the offence of habitually consorting with convicted offenders under section 93X of the *Crimes Act 1900*,
 - (xv) the offence of contravening a public safety order under section 87ZA of the *Law Enforcement (Powers and Responsibilities) Act 2002*,
 - (xvi) an offence of making, using or interfering with unique identifiers under section 154H of the *Crimes Act 1900*,
 - (xvii) the offence of having possession of a motor vehicle, vessel or trailer where the unique identifier has been interfered with under section 154I of the *Crimes Act 1900*,
 - (xviii) the offence of having possession of an identification plate not attached to the motor vehicle or trailer to which it relates under section 154J of the *Crimes Act 1900*, or
- (d) the applicant has not obtained a necessary approval for the use of a specified place as a holding yard in carrying on the applicant's business, or
 - (e) the applicant has been subject to disciplinary action under Division 4 of Part 3 of the Act in relation to the requirements for holding yards under Part 4, or
 - (f) the Secretary reasonably believes that information given in the licence application is false or misleading in a material particular.

8 Payment of licence fee

- (1) The Secretary may refuse to grant a licence until the licence fee is paid.
- (2) If a licence is granted in respect of a business carried on in partnership, a single licence fee is payable for the licence.
- (3) In this clause—

licence fee means the fee referred to in section 17(2)(h) of the Act.

9 Licence conditions

For the purposes of section 20(2)(l) of the Act, the following conditions are prescribed—

- (a) the licensee must ensure that each driver complies with the protective clothing policy,
- (b) the licensee must keep a record of the registration details of each tow truck operated by the licensee,
- (c) except as provided by clause 86, the licensee may, under the authority of the licence, only operate the tow trucks that are specified in the licence,
- (d) the licensee must hold public liability and “on-hook” liability insurance.

10 Exemption from “on-hook” liability insurance requirement

A licensee is exempt from the requirement, under clause 9(d), that the licensee holds “on-hook” liability insurance in respect of any tow truck that is used, or intended to be used, solely for towing motor vehicles for the purposes of metal recycling or vehicle demolishing or dismantling by a vehicle-wrecker.

11 Exemption from certain licence conditions for tow trucks registered interstate

- (1) This clause applies to a licensee who intends to operate, under the authority of the licence, tow trucks that are registered outside New South Wales.
- (2) The licensee is exempt from the condition in section 20(2)(e) of the Act if the licensee ensures that each licensed tow truck displays a sign approved for the purposes of this clause—
 - (a) on the front and back of the tow truck in an approved manner, and
 - (b) so as to be clearly visible to persons outside the tow truck.

Division 2 Provisions relating to drivers certificates

12 Drivers certificate applications

- (1) For the purposes of section 105(2)(a) of the Act, the Secretary may require an applicant for a drivers certificate to provide further documents or information in support of the application.
Note. Under section 25(2)(b) of the Act, an application for a drivers certificate must contain the particulars required by the approved application form.
- (2) The Secretary may refuse to determine an application for a drivers certificate until the further documents or information in support of the application have been provided.

13 Drivers certificate application fee

- (1) The Secretary may refuse to determine an application for a drivers certificate until the drivers certificate application fee is paid.
- (2) In this clause—
drivers certificate application fee means the fee referred to in section 25(2)(c) of the Act.

14 Discretionary grounds for refusing drivers certificate application

- (1) For the purposes of section 26(4) of the Act, the grounds on which the Secretary may refuse an application for, or renewal or restoration of, a drivers certificate include any case in which the following have occurred on more than one occasion during the period of 3 years immediately before the application was made—
 - (a) the applicant has been disqualified from holding a driver licence,
 - (b) the applicant’s driver licence has been suspended or cancelled (other than for fine default under the *Fines Act 1996* or in relation to illness, incapacity or a

medical condition under clause 65(1)(b) or (7) of the *Road Transport (Driver Licensing) Regulation 2017*.

- (2) For the purposes of subclause (1), it does not matter that any of the periods of disqualification, suspension or cancellation occurred during only part of the 3-year period.
- (3) For the purposes of section 26(4) of the Act, the Secretary may refuse an application for a drivers certificate if the applicant has, within the period of 10 years before the application for the drivers certificate was made, been convicted or been found guilty (but with no conviction being recorded) of the following offences (regardless of whether the offence was committed in New South Wales)—
 - (a) an offence relating to the possession or use of a firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or other weapon,
 - (b) an offence involving the supply or possession of a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (c) an offence involving the cultivation (for a commercial purpose), supply or possession of a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (d) an offence relating to organised car, boat or trailer rebirthing activities under section 154G of the *Crimes Act 1900*,
 - (e) an offence of dealing with property suspected of being proceeds of crime under section 193C of the *Crimes Act 1900*,
 - (f) an offence involving the recruitment of another person to carry out or assist in carrying out a criminal activity within the meaning of section 351A of the *Crimes Act 1900*,
 - (g) an offence involving participation in a criminal group or participation in any criminal activity of a criminal group within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*,
 - (h) the offence of contravening a serious crime prevention order under section 8 of the *Crimes (Serious Crime Prevention Orders) Act 2016*,
 - (i) an offence under section 74 of the *Firearms Act 1996* relating to a firearms prohibition order,
 - (j) an offence under section 34 of the *Weapons Prohibition Act 1998* relating to a weapons prohibition order,
 - (k) an offence involving an assault of any kind against a person,
 - (l) an offence involving fraud, dishonesty or stealing,
 - (m) an offence involving robbery (whether armed or otherwise),
 - (n) the offence of habitually consorting with convicted offenders under section 93X of the *Crimes Act 1900*,
 - (o) the offence of contravening a public safety order under section 87ZA of the *Law Enforcement (Powers and Responsibilities) Act 2002*,
 - (p) an offence of making, using or interfering with unique identifiers under section 154H of the *Crimes Act 1900*,
 - (q) the offence of having possession of a motor vehicle, vessel or trailer where the unique identifier has been interfered with under section 154I of the *Crimes Act 1900*,
 - (r) the offence of having possession of an identification plate not attached to the motor vehicle or trailer to which it relates under section 154J of the *Crimes Act 1900*.

- (4) For the purposes of section 26(4) of the Act, an application may be refused if circumstances equivalent to the matters set out in subclause (1) have occurred under a law of another State or Territory.

15 Particulars on drivers certificate

For the purposes of section 28(2)(d) of the Act, a drivers certificate must contain the following particulars—

- (a) the expiry date of the certificate,
- (b) the driver licence number of the certified driver.

16 Conditions of drivers certificate

For the purposes of section 29(2)(c) of the Act, the following conditions are prescribed—

- (a) the certified driver must comply with the protective clothing policy,
- (b) the certified driver must, before towing a motor vehicle, ensure that the type of tow truck intended to be used is suitable for towing that particular motor vehicle.

17 Payment of drivers certificate fee

The Secretary may refuse to grant a drivers certificate until the fee referred to in section 25(2)(c) of the Act is paid.

Division 3 General provisions

18 Variation of licence or drivers certificate conditions

If a licensee or certified driver applies for an amendment of the licence or drivers certificate in accordance with section 35 of the Act, the Secretary may charge the applicant a fee of 0.57 fee units in respect of the application.

19 Pending application for subsequent licence or drivers certificate

- (1) This clause applies if—
- (a) the holder of a licence or drivers certificate (the *current licence or drivers certificate*) applies for a subsequent licence or drivers certificate before the term of the current licence or drivers certificate expires, and
 - (b) the holder has paid the relevant application fee for the subsequent licence or drivers certificate, and
 - (c) the application has not been dealt with by the time the current licence or drivers certificate expires.
- (2) The authority conferred by the current licence or drivers certificate continues until the earlier of—
- (a) the day that is 90 days after the expiry of the current licence or drivers certificate, or
 - (b) the day the person is notified of the granting or refusal of the subsequent licence or drivers certificate.

20 Requirement to notify Secretary

- (1) The holder of a licence or drivers certificate must notify the Secretary in writing, as soon as practicable after a change in—
- (a) the holder's residential address, or

- (b) the holder's postal address, or
 - (c) the status of the holder's driver licence.
- Maximum penalty—20 penalty units.
- (2) The holder of a licence or drivers certificate must notify the Secretary in writing, not more than 14 days after a change in information provided relating to a conviction or finding of guilt (with no conviction being recorded) in relation to an offence listed in clause 7(c) or 14(3).
- Maximum penalty—20 penalty units.

Division 4 Exemption for persons who tow scrap metal

Subdivision 1 Exemption from requirement to hold licence

21 Exemption from requirement to hold licence

- (1) A person who carries on a business as a tow truck operator is exempt from the requirement under section 15 of the Act to hold a licence if—
- (a) the person holds an exemption that is in force, and
 - (b) the person complies with the conditions of the exemption stated in subclause (2).

Note. A person who is exempt from the requirement under the Act to hold a licence because of this clause continues to be subject to the remainder of the Act.

- (2) An exemption is subject to the following conditions—
- (a) tow trucks used in the business must only be used for towing work that is the collection of motor vehicles for conveyance to a scrap metal business registered under the *Scrap Metal Industry Act 2016* (that is, tow trucks must not be used in towing work that involves the collection of motor vehicles for conveyance to a facility for repair, reuse or resale, either in their original form or as parts),
 - (b) a copy of the exemption certificate must be carried at all times in each tow truck used in the business of the person who holds the exemption (the **business**),
 - (c) the approved signs issued with the exemption certificate, or at a later time, must be displayed on the front and rear of each tow truck used in the business in positions where the signs are visible to persons outside the tow truck when the tow truck is being used to load, tow or unload a motor vehicle,
 - (d) the holder of the exemption must produce the exemption certificate to an authorised officer or police officer on request whenever the holder is at the place of business specified in the exemption certificate,
 - (e) any tow truck used in the business must be one on which a crane is mounted,
 - (f) any tow truck used in the business must not be a tilt table top tow truck,
 - (g) a list of all drivers who drive a tow truck used in the business must be maintained at the place of business specified in the exemption certificate,
 - (h) the list of drivers must be made available to an authorised officer or police officer on request,
 - (i) only a person who is listed on the list of drivers may drive a tow truck used in the business,
 - (j) each driver who drives a tow truck used in the business must be informed of the conditions that the exemption is subject to,

- (k) the holder of the exemption must notify the Secretary in writing of the following matters—
 - (i) any proposed change in the particulars specified in the exemption certificate, at least 7 days before the proposed change occurs,
 - (ii) the name of any driver who, in addition to the drivers nominated in the application for an exemption, is proposed to drive a tow truck used in the business,
 - (iii) the registration number, make and model of any tow truck, in addition to any tow truck nominated in the application for an exemption, proposed to be used in the applicant's business,
- (l) a record (a **towing record**) of all motor vehicles transported on a tow truck used in the business must—
 - (i) be maintained at the place of business specified in the exemption certificate, and
 - (ii) be made available to an authorised officer or police officer on request,
- (m) the towing record must include the following details in relation to each motor vehicle transported—
 - (i) the date and time when the motor vehicle was transported,
 - (ii) details of where the motor vehicle was transported from and the destination of the tow,
 - (iii) the following identification details—
 - (A) the registration number of the motor vehicle,
 - (B) if the vehicle does not have a registration number—the vehicle's VIN,
 - (C) if the vehicle does not have a VIN—the chassis number or the engine number of the vehicle,
 - (D) if the vehicle does not have a registration number, VIN, chassis number or engine number or the numbers are obscured—the make, model and colour of the vehicle,
- (n) the towing record—
 - (i) must be in the approved form, and
 - (ii) must be completed as soon as practicable in relation to each occasion on which a tow truck is used or operated in the business to transport a motor vehicle,
- (o) each towing record must be maintained at the place of business specified in the exemption certificate for 5 years,
- (p) the holder of the exemption must not—
 - (i) forge or fraudulently alter an exemption certificate (whether or not it is in force), or
 - (ii) give possession of an exemption certificate to another person for the purpose of using it, or it being used, unlawfully, or
 - (iii) knowingly have possession of a forged or fraudulently altered exemption certificate,
- (q) the holder of the exemption must, within 7 days of becoming aware that the exemption certificate has been lost, stolen, damaged, destroyed, altered or defaced—
 - (i) notify the Secretary in writing of that occurrence, and
 - (ii) in the case of a damaged, altered or defaced exemption certificate—return it to the Secretary,

- (r) the holder of the exemption must not in any way suggest or imply that the holder may, because of the exemption, exercise any function other than a function allowed under the exemption (and must not exercise a function allowed under the exemption otherwise than in accordance with this subclause),
- (s) a driver who drives a tow truck used in the business must not—
 - (i) in any way suggest or imply that the driver may, because of the exemption, exercise any function apart from a function allowed under the exemption, or
 - (ii) exercise the function allowed under the exemption otherwise than in accordance with the conditions of the exemption,
- (t) the holder of the exemption must not in any way use or attempt to use the exemption certificate to exercise any function apart from a function allowed under the exemption,
- (u) a driver who drives a tow truck used in the business must not in any way use or attempt to use the exemption certificate to exercise any function apart from a function allowed under the exemption.

Note. Under section 33A(7) of the Act, a person who holds an exemption is guilty of an offence if a condition of the exemption is contravened.

- (3) A person who drives a tow truck used in the business of a person who holds an exemption is guilty of an offence if the driver contravenes a condition of the exemption specified in subclause (2)(c), (s) or (u).

Maximum penalty—25 penalty units.

Subdivision 2 Exemption from requirement to hold drivers certificate

22 Exemption from requirement to hold drivers certificate

- (1) A person who drives a tow truck in a tow truck business is exempt from the requirement under section 23 of the Act to hold a drivers certificate in relation to the business if the person—
 - (a) is employed or engaged by a tow truck operator who holds an exemption in relation to the business, and
 - (b) is included on the list of drivers required to be maintained by clause 21(2)(g), and
 - (c) complies with the condition of the exemption stated in subclause (2).

Note. A person who is exempt from the requirement under the Act to hold a drivers certificate because of this clause continues to be subject to the remainder of the Act.

- (2) The exemption is subject to the condition that the person must produce a copy of the tow truck operator's exemption certificate to an authorised officer or police officer on request of the officer whenever the person is—
 - (a) driving or standing a tow truck on a road or road related area, or
 - (b) using or operating, or assisting in the use or operation of, a licensed tow truck on a road or road related area at any time, or
 - (c) carrying out, or attempting to obtain, any towing work.

Subdivision 3 Exemptions

23 Circumstances for granting exemption

- (1) For the purposes of section 33A(3)(a) of the Act, the Secretary may grant an application by a tow truck operator for an exemption if the Secretary is satisfied that

the only towing work that tow trucks used in the business engage in is the collection of motor vehicles for conveyance to a scrap metal business registered under the *Scrap Metal Industry Act 2016*.

- (2) The Secretary, on granting an exemption, must issue 2 signs, in the approved form, for each tow truck nominated by the applicant in the application for the exemption.

24 Restrictions on granting exemption

The Secretary must refuse to grant an application for an exemption if—

- (a) the applicant will, in the opinion of the Secretary, be engaged in towing work that involves the collection of motor vehicles for conveyance to a facility for repair, reuse or resale, either in their original form or as parts, or
- (b) the applicant is not, in the opinion of the Secretary, a fit and proper person to hold an exemption or is otherwise not competent to engage in the collection of motor vehicles for conveyance to a scrap metal business, or
- (c) the application is incomplete in a material particular, or
- (d) the application contains matter that is, in the opinion of the Secretary, false or misleading in a material particular, or
- (e) any tow truck to be operated in the course of the applicant's business does not have a crane mounted on it, or
- (f) any tow truck to be operated in the course of the applicant's business is a tilt table top tow truck.

25 Duration of exemption

An exemption continues in force for 2 years from the date on which it is granted or a shorter period as may be specified in the exemption certificate, unless it is sooner revoked.

26 Proposed changes in particulars to be reflected in replacement exemption certificate

If the Secretary has been notified of a change in the particulars specified in an exemption certificate, the Secretary may approve the proposed change of particulars by amending the exemption and granting a replacement exemption certificate.

27 Provision of signs for additional exempted tow truck

If the Secretary has been notified of a proposed additional tow truck to be used in the course of the business of the holder of an exemption, the Secretary may approve the additional tow truck and issue 2 signs, in the approved form, for each such tow truck.

28 Requirement to return exemption certificate

If an exemption is revoked or has expired, the holder of the exemption must return the exemption certificate, and all approved signs issued to the holder, to the Secretary within 14 days of the revocation or expiry.

Maximum penalty—15 penalty units.

Part 3 Towing authorisations

29 Definition

In this Part—

towing authorisation book means a book, issued by the Secretary, comprising approved towing authorisation forms.

30 Exception from requirement to obtain towing authorisations for towing work

In accordance with section 49(2)(b) of the Act, a person is not required to obtain a towing authorisation for towing work if—

- (a) an authorised officer has indicated to the person that a towing authorisation is not required for the towing work, and
- (b) the towing work is carried out in accordance with the directions of the authorised officer.

31 Requirement to leave accident scene once towing authorisations obtained

If, in relation to an accident involving one or more motor vehicles, a person or persons have obtained towing authorisations for the towing of the motor vehicle or vehicles, any other person who has attended the scene of the accident for the purpose of obtaining towing work by the use of a tow truck but has not obtained a towing authorisation must not remain at the scene of the accident.

Maximum penalty—50 penalty units.

32 Persons who may give towing authorisations

A towing authorisation for the towing of a motor vehicle by a tow truck may only be given by—

- (a) the owner or driver of the motor vehicle to be towed, or
- (b) an authorised officer, or
- (c) a police officer.

33 Completion of, and dealing with, towing authorisations

For the purposes of section 51(4) of the Act, a person who obtains a towing authorisation must ensure—

- (a) the authorisation—
 - (i) is in writing in the approved form, and
 - (ii) is included in a towing authorisation book, and
 - (iii) is signed by the person and by the person giving the authorisation, and
 - (iv) specifies an address given by the person giving the authorisation as the address to which the motor vehicle is to be towed, and
 - (v) specifies an alternative address being the address of the licensee's holding yard where the motor vehicle will be towed to if the address specified under subparagraph (iv) is not accessible, and
 - (vi) is otherwise completed (to the extent that is reasonably practicable in the circumstances) in the approved manner and by the insertion of the information required by the approved form, and
- (b) the original towing authorisation and 2 copies are completed, and
- (c) the towing authorisation used is the next available towing authorisation in order of serial number.

34 False information in towing authorisations

- (1) A person must not record anything in a towing authorisation that the person knows to be false or misleading.
Maximum penalty—50 penalty units.
- (2) A person must not induce another person to sign a towing authorisation that the first person knows to be false or misleading.
Maximum penalty—50 penalty units.

35 Other requirements relating to towing authorisations

- (1) A person who seeks to obtain a towing authorisation for the towing of a motor vehicle by a tow truck must—
 - (a) complete a written quotation for towing services form (in an approved form) in relation to the towing of the motor vehicle before obtaining the authorisation, and
 - (b) provide the quotation for towing services form to the person who is to give the authorisation, and
 - (c) explain to the person who is to give the authorisation that they have the following rights—
 - (i) to decide the address where the vehicle will be towed to,
 - (ii) to decide who will tow the vehicle,
 - (iii) to contact anyone before signing the written towing authorisation form for their assistance with deciding on the correct address to have the vehicle towed to,
 - (iv) to refuse to accept a tow for any reason,
 - (v) to receive a completed and signed copy of the written towing authorisation form that contains contact details for the tow truck operator who will be towing the vehicle and a completed quotation for towing and storage services.

Maximum penalty—25 penalty units.
- (2) A person who obtains a towing authorisation for the towing of a motor vehicle by a tow truck must—
 - (a) immediately provide a copy of the towing authorisation to the person giving the authorisation, and
 - (b) within 72 hours of completing the towing work to which the towing authorisation relates, deliver the original towing authorisation to the holder of the licence under which the tow truck is operated, and
 - (c) keep a copy of the towing authorisation in the towing authorisation book.

Maximum penalty—50 penalty units.
- (3) An authorised officer or a police officer who gives a towing authorisation for the towing of a motor vehicle by a tow truck under clause 32(b) or (c) must provide the copy of the authorisation received under subclause (2)(a) to the owner or driver of the motor vehicle within 7 days of receiving that copy.
- (4) A person who obtains a towing authorisation must, before towing the motor vehicle by a tow truck, complete a notice (the **towing notice**) that is in the approved form and contains the following information—
 - (a) the serial number of the towing authorisation to which the towing notice relates,

- (b) the name of the licensee 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 towing authorisation,
- (d) the registration number of the motor vehicle to which the towing authorisation relates,
- (e) the address to which the motor vehicle is to be towed,
- (f) if the motor vehicle is to be towed to a holding yard—the address of the holding yard.

Maximum penalty—50 penalty units.

- (5) The person who completes the towing notice must attach the notice to the motor vehicle in the approved way before towing the motor vehicle.

Maximum penalty—50 penalty units.

- (6) A person must not remove a towing notice attached to a motor vehicle in accordance with subclause (5) 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
- (c) the person is acting under the written authority of a person referred to in paragraph (a) or (b).

Maximum penalty—50 penalty units.

- (7) Despite subclause (6), an authorised officer or police officer may remove a towing notice attached to a motor vehicle in accordance with subclause (5) for the following purposes—

- (a) to determine compliance with or contravention of the Act or this Regulation,
- (b) to obtain information or documents for the purpose of administering the Act,
- (c) generally for administering the Act.

- (8) A person must not obtain, or attempt to obtain, a towing authorisation for the towing of a motor vehicle involved in an accident until any towing authorisation that the person has obtained for the towing of any other motor vehicle involved in the same accident has been completed in accordance with the particulars specified in that authorisation.

Maximum penalty—50 penalty units.

- (9) A licensee must ensure that each tow truck driver who is employed or engaged by the licensee complies with the requirements of this clause.

Maximum penalty—50 penalty units.

36 Towing authorisation books

- (1) The Secretary may, on application by a licensee and on payment of the approved fee, issue the licensee with a towing authorisation book for each tow truck operating under the licence.

- (2) A licensee must provide a towing authorisation book to each certified driver carrying out towing work under the licence that requires a towing authorisation.

Maximum penalty—25 penalty units.

- (3) A certified driver must not carry out any towing work that requires a towing authorisation unless the driver is in possession of a towing authorisation book.

Maximum penalty—15 penalty units.

- (4) A certified driver must produce any towing authorisation book in the driver's possession for inspection on request by an authorised officer or police officer and allow the person to whom it is produced to take extracts from, or to make copies of, any entry in that book.

Maximum penalty—15 penalty units.

- (5) As soon as a certified driver completes a towing authorisation book, the driver must deliver the book to the licensee who gave it to the driver.

Maximum penalty—15 penalty units.

37 Keeping and production of towing authorisations

- (1) A licensee must—

- (a) keep, for at least 5 years, the following at the licensee's place of business as specified in the licence—

(i) the original of each completed towing authorisation that relates to a tow truck operated under the licence,

(ii) each towing authorisation book issued to the licensee, and

- (b) immediately on request by an authorised officer or a police officer, produce for inspection—a towing authorisation or towing authorisation book kept by the licensee, or a copy of an authorisation to which the licensee has reasonable access, and

- (c) allow for the purposes of evidence a person to whom a towing authorisation or towing authorisation book is produced—

(i) to take extracts from, or to make copies of, the authorisation or book, or

(ii) to remove the authorisation or book.

Maximum penalty—20 penalty units.

- (2) If a licence expires or is revoked or surrendered, the person to whom the licence was issued must return to the Secretary within 7 days of the expiration, revocation or surrender—

- (a) any completed original towing authorisation that has been delivered to the person, and

(b) any towing authorisation books supplied to the person, and

(c) any towing notice that has not been completed.

Maximum penalty—20 penalty units.

Part 4 Holding yards

38 Security requirements

- (1) Except as provided by subclause (2), a licensee must ensure that any holding yard of the licensee—
 - (a) is enclosed by a security fence that is not less than 2 metres high and that has gates with locks, and
 - (b) has flood lighting installed, and
 - (c) has a closed-circuit television system or a monitored security alarm system installed.

Maximum penalty—25 penalty units.

- (2) The Secretary may, by notice in writing, exempt a licensee from a requirement under subclause (1).
- (3) An exemption may be granted subject to the condition that the licensee comply with a requirement specified in the notice.
- (4) A licensee must ensure that the security fence enclosing a holding yard of the licensee is properly maintained and, if damaged, is repaired as soon as possible and within 21 days of becoming aware of the damage.

Maximum penalty—25 penalty units.

39 Storage capacity

It is a condition of a licence that any holding yard of the licensee is capable of storing any motor vehicle towed under the authority of the licence to the holding yard.

40 Access to holding yard

It is a condition of a licence that any holding yard of the licensee is accessible at all times by each licensed tow truck operated by the licensee.

41 Holding yard register

- (1) It is a condition of a licence that the licensee must keep a register (the *holding yard register*) in the approved form and manner, and in accordance with this clause, in relation to a holding yard of the licensee.
- (2) The licensee must keep a separate holding yard register for each holding yard listed on a licence.
- (3) The following particulars are to be recorded in a holding yard register—
 - (a) the time and date on which each motor vehicle is towed into and out of the holding yard,
 - (b) the name of the tow truck driver who towed the motor vehicle to the holding yard,
 - (c) the name and contact details of the person who authorised the release of the motor vehicle from the holding yard,
 - (d) a copy of a written authorisation for the release of a motor vehicle from the holding yard,
 - (e) the particulars in paragraphs (a)–(d) that relate to the moving of a motor vehicle between approved holding yards of a licensee,
 - (f) the make, model, type and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the motor vehicle,

- (ii) if the vehicle does not have a registration number—the vehicle’s VIN,
 - (iii) if the vehicle does not have a VIN—the chassis number or the engine number (if any) of the vehicle,
 - (g) the serial number of the towing authorisation obtained in relation to the motor vehicle.
- (4) The licensee must update the holding yard register with the particulars under subclause (3) within 24 hours of each occasion on which a motor vehicle is towed into or out of the holding yard.

42 Certain operators not required to maintain a holding yard

- (1) Nothing in the Act requires the following tow truck operators to maintain a holding yard—
- (a) a tow truck operator who only operates tow trucks with a gross combination mass of 20 tonnes or more for the purpose of towing heavy motor vehicles (within the meaning of Part 5),
 - (b) a tow truck operator who operates tow trucks only for towing motor vehicles for the purposes of metal recycling or vehicle demolishing or dismantling by a vehicle-wrecker,
 - (c) a tow truck operator who operates tow trucks only for purposes other than attending motor vehicle accidents.
- (2) A person towing a heavy motor vehicle for a tow truck operator referred to in subclause (1)(a) is exempt from section 51(3) of the Act.

Part 5 Fees for towing, salvage, storage and related services

Note. This Part makes provision for the fees that may be charged for the towing, salvage or storage of a motor vehicle that has been involved in an accident or has been stolen. It does not apply to towing work involving motor vehicles that have broken down otherwise than as a result of an accident.

Division 1 Preliminary

43 Application

This Part applies to the charging of fees by a licensee or certified driver only for the towing, salvage or storage of a motor vehicle that has been involved in an accident or has been stolen.

44 Definitions

In this Part—

approved Class 3 conventional tow truck means a tow truck that—

- (a) has a gross combination mass of no more than 25 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) cannot tow motor vehicles with a mass exceeding 12 tonnes.

approved Class 4 (A) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 25 tonnes but no more than 45 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and
- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

approved Class 4 (B) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 45 tonnes but no more than 60 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and
- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

approved Class 4 (C) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 60 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and
- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

business day means any day other than a Saturday, Sunday or public holiday throughout New South Wales.

gross combination mass has the same meaning as in the *Road Transport Act 2013*.

gross vehicle mass has the same meaning as in the *Road Transport Act 2013*.

heavy motor vehicle means a motor vehicle that has a gross vehicle mass of more than 4.5 tonnes.

licensee's holding yard means a holding yard specified in the licence of a licensee.

light motor vehicle means a motor vehicle that is not a heavy motor vehicle.

Sydney metropolitan area means the local government areas of Bayside, City of Blacktown, City of Blue Mountains, Burwood, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby and Woollahra.

Division 2 Maximum fees for towing work involving light motor vehicles

45 Maximum fees for accident towing work involving light motor vehicles

The maximum fee that may be charged for any accident towing work (other than work referred to in clause 47) involving a light motor vehicle is—

- (a) 2.43 fee units, and
- (b) if the accident towing work occurs—
 - (i) entirely within the Sydney metropolitan area—an additional 0.0528 fee units for every kilometre in excess of 10 km travelled via the most direct route from the scene of the accident to the destination specified in the towing authorisation, or
 - (ii) partly or wholly outside the Sydney metropolitan area—an additional 0.0435 fee units for every kilometre in excess of 20 km travelled via the most direct route both in travelling from the licensee's place of business to the scene of an accident and then to the destination specified on the towing authorisation, and
- (c) if the accident towing work occurs—
 - (i) entirely within the Sydney metropolitan area and if any part of the accident towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(i) that relates to the accident towing work that occurred outside those hours, or
 - (ii) partly or wholly outside the Sydney metropolitan area and if any part of the accident towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(ii) that relates to the accident towing work that occurred outside those hours, and
- (d) if the accident towing work occurs partly or wholly outside the Sydney metropolitan area on a road with a speed limit of or above 80 kilometres per hour—an additional 0.6 fee units for each hour or part of an hour of work involved in cleaning glass or debris at the scene of the accident, and
- (e) any toll charges incurred during the towing work or travelling to the scene of the accident.

46 Maximum fees for recovery towing work involving light motor vehicles

The maximum fee that may be charged for any towing work that involves the recovery of a light motor vehicle that has been stolen and has not been involved in an accident is—

- (a) 1.60 fee units, and
- (b) if the towing work occurs—
 - (i) entirely in the Sydney metropolitan area and involves travelling a distance of more than 10 km via the most direct route from the initial location of the motor vehicle to the destination specified by the vehicle owner—an additional 0.0528 fee units for every kilometre in excess of 10 km travelled via the most direct route, or
 - (ii) partly or wholly outside the Sydney metropolitan area and involves travelling a distance of more than 20 km via the most direct route both in travelling from the licensee's place of business to the initial location of the motor vehicle and then to the destination specified by the vehicle owner—an additional 0.0435 fee units for every kilometre in excess of 20 km travelled via the most direct route, and
- (c) if the towing work occurs—
 - (i) entirely in the Sydney metropolitan area and if any part of the towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(i) that relates to the towing work that occurred outside those hours, or
 - (ii) partly or wholly outside the Sydney metropolitan area and if any part of the towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(ii) that relates to the towing work that occurred outside those hours, and
- (d) any toll charges incurred during the towing work or travelling to the location of the motor vehicle.

47 Maximum fees for subsequent tows of light motor vehicles

- (1) This clause applies if a light motor vehicle that has been involved in an accident or has been stolen is towed by a licensee or certified driver from a temporary location to which it had previously been towed by that licensee or certified driver for storage or repair to another place for storage or repair specified on the towing authorisation (a *subsequent tow*).
- (2) The maximum fee that may be charged for the subsequent tow is—
 - (a) 0.88 fee units, and
 - (b) if the subsequent tow occurs—
 - (i) entirely in the Sydney metropolitan area and involves travelling a distance of more than 10 km via the most direct route from a temporary location where the motor vehicle has been stored to the destination specified on the towing authorisation—an additional 0.0528 fee units for every kilometre in excess of 10 km travelled via the most direct route, or
 - (ii) partly or wholly outside the Sydney metropolitan area and involves travelling a distance of more than 20 km via the most direct route both in travelling from the licensee's place of business to a temporary location where the motor vehicle has been stored and then to the destination specified on the towing authorisation—an additional 0.0435

- fee units for every kilometre in excess of 20 km travelled via the most direct route, and
- (c) if the subsequent tow occurs—
 - (i) entirely in the Sydney metropolitan area and if any part of the subsequent towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(i) that relates to the towing work that occurred outside those hours, or
 - (ii) partly or wholly outside the Sydney metropolitan area and if any part of the subsequent towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(i) that relates to the towing work that occurred outside those hours, and
 - (d) any toll charges incurred during the subsequent tow or while travelling to the location of the motor vehicle.
- (3) Despite subclause (2), if 2 or more light motor vehicles are carried simultaneously on a subsequent tow—
- (a) any fee for excess kilometres under subclause (2)(b) may only be charged to one motor vehicle, and
 - (b) any toll incurred may only be charged under subclause (2)(d) to one motor vehicle.

48 Fee must not be charged for complying with directions

A fee must not be charged for towing work undertaken in accordance with any direction of an authorised officer or police officer to move a light motor vehicle that is causing an unreasonable obstruction to traffic to the nearest place where it no longer causes an obstruction to traffic.

49 Fee must not be charged for time spent waiting

A separate fee must not be charged for any time spent waiting or standing at the scene of an accident or incident involving a light motor vehicle, including any time spent waiting for the permission of a police officer or emergency service personnel to remove a motor vehicle.

Division 3 Maximum fees for towing work involving heavy motor vehicles

50 Limitation on trucks that may charge for towing work involving heavy motor vehicles

A fee must not be charged for accident towing work involving a heavy motor vehicle, or towing work involving the recovery of a stolen heavy motor vehicle, unless—

- (a) the relevant tow truck is an approved Class 3 conventional tow truck, approved Class 4 (A) conventional tow truck, approved Class 4 (B) conventional tow truck or approved Class 4 (C) conventional tow truck, and
- (b) the relevant tow truck does not exceed its gross combination mass when towing the heavy motor vehicle.

51 Maximum fees for accident towing work involving heavy motor vehicles

The maximum fee that may be charged for any accident towing work involving a heavy motor vehicle is—

- (a) the following amount for the first hour of accident towing work—

- (i) 2.57 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 2.78 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 2.92 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 3.71 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (b) the following amount for every subsequent hour or part of an hour of accident towing work—
- (i) 1.59 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 1.83 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 1.96 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 2.77 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (c) if a second certified driver is required to carry out the towing work—an additional 0.65 fee units for each hour or part of an hour that the second certified driver is involved in the towing work at the scene of the accident, and
- (d) an additional 0.65 fee units for each hour or part of an hour of administrative work involved in arranging the towing of the motor vehicle or the salvage of its load or freight, payable for only one driver for each accident, and
- (e) an additional 0.6 fee units for each hour or part of an hour of work involved in cleaning glass or debris at the scene of the accident, and
- (f) if any part of the work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 50% of that part of the fee calculated under paragraphs (c) and (d) that relates to the work that occurred outside those hours, and
- (g) if any additional equipment is required to complete the accident towing work and that equipment has been arranged for and paid for by the licensee or certified driver—110% of the cost of the use of that equipment, and
- (h) any toll charges incurred during the towing work or travelling to the scene of the accident.

52 Maximum fees for stolen motor vehicle recovery involving heavy motor vehicles

The maximum fee that may be charged for any towing work that involves the recovery of a heavy motor vehicle that has been stolen and has not been involved in an accident is—

- (a) the following amount for the first hour of towing work—
 - (i) 2.34 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 2.55 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 2.69 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 3.48 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and

- (b) the following amount for every subsequent hour or part of an hour of towing work—
 - (i) 1.59 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 1.83 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 1.96 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 2.77 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (c) if a second certified driver is required to carry out the towing work—an additional 0.65 fee units for each hour or part of an hour that the second certified driver is involved in the towing work at the location from which the motor vehicle is recovered, and
- (d) an additional 0.65 fee units for each hour or part of an hour of administration work involved in arranging the towing of the motor vehicle or the salvage of its load or freight, payable for only one driver for each motor vehicle recovered, and
- (e) if any part of the work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 50% of that part of the fee calculated under paragraphs (c) and (d) that relates to the work that occurred outside those hours, and
- (f) if any additional equipment is required to complete the towing work, salvage or site recovery and that equipment has been arranged for and paid for by the licensee or certified driver—110% of the cost of the use of that equipment, and
- (g) any toll charges incurred during the towing work or travelling to the location of the motor vehicle.

53 Stand by rate

The maximum fee that may be charged for standing by to do accident towing work involving a heavy motor vehicle, or towing work involving recovering a heavy motor vehicle that has been stolen and has not been involved in an accident, is—

- (a) in the case of an approved Class 3 conventional tow truck—
 - (i) 1.29 fee units for the first hour of standing by, and
 - (ii) an additional 0.80 fee units for each subsequent hour or part of an hour of standing by, or
- (b) in the case of an approved Class 4 (A) conventional tow truck—
 - (i) 1.39 fee units for the first hour of standing by, and
 - (ii) an additional 0.9135 fee units for each subsequent hour or part of an hour of standing by, or
- (c) in the case of an approved Class 4 (B) conventional tow truck—
 - (i) 1.46 fee units for the first hour of standing by, and
 - (ii) an additional 0.98 fee units for each subsequent hour or part of an hour of standing by, or
- (d) in the case of an approved Class 4 (C) conventional tow truck—
 - (i) 1.8526 fee units for the first hour of standing by, and
 - (ii) an additional 1.383 fee units for each subsequent hour or part of an hour of standing by.

Division 4 Maximum fees for certain salvage

54 Fees must not be charged for certain salvage

A fee must not be charged for the salvage of a light motor vehicle involved in an accident that is still at the scene of the accident if the salvage is from a road or road related area.

55 Maximum fees for certain salvage of light motor vehicles

- (1) The maximum fee that may be charged for the salvage of a light motor vehicle involved in an accident that is still at the scene of the accident and is not salvage from a road or road related area is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.62 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and
 - (c) if an assistant is required—0.62 fee units for each hour or part of an hour that the assistant is actually involved in the salvage, and
 - (d) if one or more additional tow trucks are required in the salvage operation—the rate applicable in clause 45 may be charged for each tow truck, and
 - (e) if any part of the salvage work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of the part of the fee calculated under paragraphs (a)–(d) that relates to the work that occurred outside those hours.
- (2) The maximum fee that may be charged for the salvage of a light motor vehicle that has been stolen and has not been involved in an accident and is not salvage from a road or road related area is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.62 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and
 - (c) if an assistant is required—0.62 fee units for each hour or part of an hour that the assistant is actually involved in the salvage, and
 - (d) if one or more additional tow trucks are required in the salvage operation—the rate applicable in clause 46 may be charged for each tow truck, and
 - (e) if any part of the salvage work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee calculated under paragraphs (a)–(d) that relates to the work that occurred outside those hours.

56 Maximum fees for certain salvage of heavy motor vehicles

- (1) The maximum fee that may be charged for the salvage of a heavy motor vehicle involved in an accident that is still at the scene of the accident is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.88 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and
 - (c) an additional 0.65 fee units for each hour or part of an hour of site administration work involved in arranging the salvage of the motor vehicle or of its load or freight, payable for only one driver for each accident, and
 - (d) if any part of the salvage work or site administration work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 50% of the part of the fee calculated under

paragraphs (a)–(c) that relates to the work that occurred outside those hours, and

- (e) if any additional equipment is required to complete the salvage and that equipment has been arranged for and paid for by the licensee or certified driver—110% of the cost of the use of that equipment.
- (2) For the purposes of determining the time involved in the salvage of a heavy motor vehicle, any time using a tow truck is not to be counted.
 - (3) Subclause (1) does not prevent a licensee from charging an additional amount for any time spent using oxy-acetylene equipment, an air bag or an air jack for the salvage of a heavy motor vehicle involved in an accident that is still at the scene of the accident.

57 Stand by rate for salvage of heavy motor vehicles

The maximum fee that may be charged for standing by to do salvage work involving a heavy motor vehicle is 0.44 fee units for labour only for each hour or part of an hour.

Division 5 Maximum fees for storage of motor vehicles

58 Storage fees only apply to storage in licensee's holding yard

A fee must not be charged for the storage of a motor vehicle damaged as a result of an accident anywhere other than at the licensee's holding yard.

59 Storage time commences when motor vehicle is registered in holding yard register

For the purposes of determining how long a motor vehicle is stored, storage does not commence until the later of—

- (a) the time details of the motor vehicle are recorded in the holding yard register kept under clause 41, or
- (b) the time when the motor vehicle is towed into the holding yard.

60 Maximum storage fees for light motor vehicles

- (1) The maximum fee that may be charged for the storage of a light motor vehicle, other than a motorcycle, damaged as a result of an accident, or recovered after being stolen, and that is awaiting collection by the owner or insurer is—
 - (a) for storage within the Sydney metropolitan area—0.26 fee units, or
 - (b) for storage outside the Sydney metropolitan area—0.14 fee units, for each 24 hours, or part of 24 hours.
- (2) The maximum fee that may be charged for the storage of a motorcycle damaged as a result of an accident, or recovered after being stolen, and that is awaiting collection by the owner or insurer is—
 - (a) for storage within the Sydney metropolitan area—0.1225 fee units, or
 - (b) for storage outside the Sydney metropolitan area—0.07 fee units, for each 24 hours, or part of 24 hours.

61 Maximum storage fees for heavy motor vehicles

- (1) The maximum fee that may be charged for the storage for more than 72 hours of a heavy motor vehicle is 0.97 fee units for each 24 hours, or part of 24 hours, after the first 72 hours.

- (2) A fee must not be charged for the storage of a heavy motor vehicle that is awaiting repair at a smash repair business or is awaiting transfer to the holding yard of a smash repair business.

62 Fee must not be charged for relocation of a motor vehicle

A fee must not be charged for—

- (a) placing a motor vehicle in an easily accessible location in the licensee's holding yard or holding yards, or
- (b) any other relocation of a motor vehicle in the licensee's holding yard or holding yards, or
- (c) the removal of a motor vehicle from a licensee's holding yard or holding yards, or
- (d) the use of the licensee's own equipment to make a motor vehicle in the licensee's holding yard or holding yards accessible.

63 Sign must warn customers about storage fees

A licensee must display a clearly visible sign in the licensed operator's office and the licensee's holding yard advising of any ongoing fee for storage of motor vehicles damaged as a result of an accident, or recovered after being stolen, after the first 72 hours.

Maximum penalty—10 penalty units.

64 Procedure required before storage fees may be charged

A fee must not be charged for storage of a motor vehicle damaged as a result of an accident unless the licensee records the details of the motor vehicle in the holding yard register kept under clause 41 in chronological order at the time and on the date the vehicle is towed in or out of the licensee's holding yard.

65 Fee for access to motor vehicle outside business hours

A licensee must not charge the owner of a motor vehicle a fee for providing access outside business hours to a motor vehicle stored at a holding yard unless the licensee has first notified the person of the fee to be charged.

Note. Section 20(2)(d1) of the Act makes it a condition of a licence that the licensee must allow the owner of any motor vehicle stored at any holding yard used by the licensee in the course of the licensee's business to have reasonable access to the motor vehicle, during business hours at no charge to the owner, to collect items from the motor vehicle.

Division 6 Other permissible fees

66 Maximum fees for travel time for accident towing work and stolen motor vehicle recovery involving heavy vehicles

- (1) The same maximum hourly fee as the hourly fee set out in clause 51(a) and (b) may be charged for any time taken to travel from a licensee's place of business to the scene of an accident and then to the destination specified on the towing authorisation as may be charged for accident towing work involving a heavy motor vehicle, but only if that travel is via the most direct route.
- (2) The same maximum hourly fee as the hourly fee set out in clause 52(a) and (b) may be charged for any time taken to travel from a licensee's place of business to the initial location of a heavy motor vehicle and then to return to the licensee's place of business as may be charged for stolen heavy motor vehicle recovery, but only if that travel is via the most direct route.

67 Requirements before additional fees may be charged for related services

A fee must not be charged for any service related to towing, salvage or storage of a motor vehicle damaged as a result of an accident, or a recovered stolen motor vehicle, that is not a service for which a maximum amount is prescribed by Divisions 2–5, unless—

- (a) the licensee or certified driver provides the owner or driver of the motor vehicle with a written quotation setting out the fee for the service, and
- (b) the licensee or certified driver explains the fee to the owner or driver of the motor vehicle before the service for which the charge is to be made is provided, and
- (c) the related service involved the use of equipment owned by a person other than the licensee, or the provision of any service by a person other than the licensee, and the fee charged is not more than the licensee was required to pay for that equipment or service, and
- (d) the licensee separately identifies and itemises details of the related service in an invoice, and
- (e) the licensee ensures that the invoice is accompanied by records (including receipts, invoices, photographs or accounts) that support the charging of the fee, and
- (f) the licensee ensures that any invoice, receipt or accounts that support the charge are available on request to the owner of the motor vehicle, the driver of the motor vehicle or an insurer of the motor vehicle before or at the time of settlement of the invoice.

68 GST

- (1) A reference in this Part to the maximum fee that may be charged for towing work, salvage or storage does not include any GST payable in respect of the work, salvage or storage.
- (2) **GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

Division 7 Fees that are not permitted

69 Separate fee must not be charged for fuel

A separate fee must not be charged for fuel costs or for payment of any fuel levy.

70 Separate fee must not be charged for moving vehicles between holding yards

A separate fee must not be charged for moving a motor vehicle between approved holding yards of a licensee.

71 Services that must not be charged for separately

A separate fee must not be charged (in addition to the maximum fee this Part allows to be charged for towing work) for any of the following done in connection with towing work—

- (a) any work involved in cleaning glass or debris from the scene of an accident (except as provided by clauses 45(d) and 51(e)),
- (b) any work involved in cleaning a tow truck, including cleaning any fluid leaks or spills from a motor vehicle towed,
- (c) any work involved in disconnecting the battery of a motor vehicle towed,

- (d) the making of any phone calls, or the doing of any other act, required to secure towing work,
- (e) the taking or production of any photographs,
- (f) the preparation and sending of any documents relating to a tow (including invoices, towing authorisations and contact details),
- (g) work involving notifying the owner of the motor vehicle of applicable storage fees,
- (h) any other administration work,
- (i) transporting the owner of, or a passenger in, the motor vehicle involved in the relevant accident,
- (j) the salvage of the load or freight of any motor vehicle involved in the relevant accident (except as provided by clauses 51(d), 52(d) and 56(1)(c)),
- (k) the storage of personal belongings,
- (l) the changing of tyres,
- (m) the provision or use of a fire extinguisher,
- (n) the provision or use of gloves,
- (o) any other activities required to undertake towing work,
- (p) any other work done as a result of a requirement imposed by the Act or this Regulation.

Division 8 Invoices

72 Photographs must be attached to certain invoices

- (1) It is a condition of a licence or drivers certificate that, if salvage work involving a light motor vehicle damaged as a result of an accident, or a recovered stolen light motor vehicle, exceeds 30 minutes, the licensee or certified driver must attach to an invoice issued by the licensee or certified driver in relation to that work at least 2 photographs, each of which clearly and accurately—
 - (a) shows the scene of the accident or the position of the motor vehicle being salvaged before any towing work or salvage work commenced, and
 - (b) displays on the photograph the time and date on which each photograph was taken.
- (2) It is a condition of a licence or drivers certificate that if towing work or salvage work involving a heavy motor vehicle damaged as a result of an accident, or a recovered stolen heavy motor vehicle, is carried out, the licensee or certified driver must attach to an invoice issued by the licensee or certified driver in relation to that work at least 2 photographs, each of which clearly and accurately—
 - (a) shows the scene of the accident or the position of the heavy motor vehicle being salvaged before any towing work or salvage work has commenced, and
 - (b) displays on the photograph the time and date on which each photograph was taken.

Part 6 Other offences and requirements

73 Offence to incite or encourage commission of offence

A person must not—

- (a) incite or encourage any other person to commit an offence under the Act or this Regulation, or
- (b) offer any inducement to another person that is likely to result in the other person committing an offence under the Act or this Regulation.

Maximum penalty—50 penalty units.

74 Misuse of licences and drivers certificates

A person must not—

- (a) forge or fraudulently alter a licence or drivers certificate (whether or not the licence or drivers certificate is in force), or
- (b) give possession of a licence or drivers certificate to another person for the purpose of using the licence or drivers certificate unlawfully, or
- (c) steal a licence or drivers certificate, or
- (d) knowingly have possession of a forged, fraudulently altered, borrowed or stolen licence or drivers certificate.

Maximum penalty—50 penalty units.

75 Lost or stolen licences and drivers certificates

- (1) A licensee or certified driver must notify the Secretary in writing as soon as practicable if the licensee's licence or the certified driver's drivers certificate has been lost, stolen, damaged, destroyed, altered or defaced.

Maximum penalty—10 penalty units.

- (2) A licensee or certified driver must as soon as practicable return the damaged, altered or defaced licence or drivers certificate to the Secretary.

Maximum penalty—20 penalty units.

76 Tow truck equipment

- (1) It is a condition of a licence that each tow truck operated under the authority of the licence must be fitted with the following equipment—

- (a) a flashing or rotating warning light that is maintained in good working order,
- (b) fully adjustable mounted lights maintained in good working order to enable the safe loading and unloading of motor vehicles onto or from the tow truck when it is dark.

- (2) It is a condition of a licence that each tow truck operated under the authority of the licence to do accident towing must be equipped with—

- (a) a broom, shovel and durable rubbish container for the efficient removal of accident debris, and
- (b) a fire extinguisher that is of at least 4.5 kg capacity and that is maintained in a serviceable condition.

- (3) In this clause—

broom means a brush or similar implement consisting of bristles, nylon or twigs attached to a handle at least 1 metre long.

shovel means an implement consisting of a broad metal blade or scoop attached to a handle at least 1 metre long and designed for taking up and removing loose matter (including, for example, earth, snow, coal and rubble).

77 Particulars to be displayed on tow trucks

A person must not drive, stand or operate a tow truck, or allow a tow truck that is being operated under the authority of a licence to be driven, stood or operated, unless the following details are printed in block letters and figures measuring approximately 50 mm high on the right-hand or off-side of the tow truck and so they are clearly legible—

- (a) the name of the person who is the licensee holding the licence under which the tow truck is operated,
- (b) the licence number.

Maximum penalty—10 penalty units.

78 Inspection of tow trucks

- (1) The Secretary or an authorised officer may, by notice in writing given to a tow truck operator (an *inspection notice*), require the tow truck operator to produce a specified tow truck under the operator's control for inspection by a person authorised by the Secretary.
- (2) The tow truck operator must comply with the requirement.
Maximum penalty—20 penalty units.
- (3) An inspection notice must—
 - (a) specify the time and place for the inspection of the tow truck, and
 - (b) allow at least 24 hours from the time the notice is given for the tow truck operator to comply with the requirement.
- (4) The person authorised by the Secretary to carry out the inspection of the tow truck is, following the inspection, to provide the tow truck operator with an assessment notice.
- (5) The assessment notice may—
 - (a) require the carrying out of such repairs or modifications as are specified in the notice, and
 - (b) require those repairs or modifications to be completed within a specified period.
- (6) The tow truck operator must comply with any such requirement.
Maximum penalty—20 penalty units.
- (7) The tow truck operator must provide the Secretary with the following—
 - (a) a copy of the assessment notice within 24 hours of receiving it from the person who carried out the inspection,
 - (b) within 24 hours of completing any repairs or modifications required by the assessment notice—a certificate, in the approved form, declaring that the repairs or modifications have been completed.

Maximum penalty—20 penalty units.
- (8) Any costs associated with the inspection of a tow truck under this clause, or with the carrying out of any repairs or modifications of a tow truck, are to be paid by the tow truck operator.

79 Tow truck number-plates to be visible while towing

If any number-plate issued under section 57 of the Act in respect of a tow truck is likely to be obscured by a motor vehicle that is to be towed by the tow truck, the driver of the tow truck must ensure that the number-plate is—

- (a) displayed at the rear of the towed vehicle, or
- (b) displayed in another manner so that it remains clearly visible.

Maximum penalty—10 penalty units.

80 Conduct and duties

- (1) This clause applies to the following persons—
 - (a) a certified driver,
 - (b) a licensee,
 - (c) an operator holding an exemption certificate,
 - (d) a person employed by an operator holding an exemption certificate.
- (2) A person to whom this clause applies must—
 - (a) behave in an orderly manner and with civility and propriety while—
 - (i) standing, using or operating a tow truck, or
 - (ii) attending the scene of a motor vehicle accident, or
 - (iii) complying with a requirement under paragraph (b) or (c), or
 - (iv) at any other time in the conduct of towing work or towing operations, and
 - (b) comply with any reasonable requirement made of the person by an authorised officer or police officer in relation to the administration of the Act or this Regulation, and
 - (c) comply with any reasonable requirement made of the person by a member of staff of the Ambulance Service of NSW (within the meaning of section 67A of the *Health Services Act 1997*), or 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.

Maximum penalty (in relation to a person referred to in subclause (1)(a)–(c))—50 penalty units.

81 Licensee required to keep certain records of non-accident towing work

- (1) A licensee must make a record of the following matters in relation to each occasion on which a licensed tow truck is used or operated by a relevant tow truck driver for any towing work other than accident towing work—
 - (a) the time and date on which a motor vehicle is towed,
 - (b) details of where the motor vehicle is towed from and the destination of the tow,
 - (c) the make, model and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the motor vehicle,
 - (ii) if the motor vehicle does not have a registration number—the vehicle's VIN,
 - (iii) if the motor vehicle does not have a VIN—the chassis number or the engine number (if any) of the vehicle,
 - (d) the name and contact details of the person who arranged for the motor vehicle to be towed,

- (e) the name and contact details of any person who takes possession of the towed motor vehicle at the destination of the tow,
- (f) details of any charges made by the licensee in relation to the tow.

Note. Section 60 of the Act also requires certain information to be recorded by a licensee on each occasion on which a licensed tow truck is used or operated by a tow truck driver for accident towing work.

- (2) Any such record must—
 - (a) be in the approved form, and
 - (b) include particulars of the name and business address of the licensee, and
 - (c) be completed in the approved manner and as soon as practicable in relation to each occasion on which the licensed tow truck is used or operated.
- (3) The licensee must keep the record at the licensee's place of business for at least 5 years after the information is recorded.
- (4) If the licence is revoked or suspended or otherwise ceases to be in force, the licensee must give the Secretary any records kept in accordance with this clause.
- (5) The licensee must, on request by an authorised officer or police officer, give the officer the name and address of any tow truck driver whose services have been or are being used by the licensee.
- (6) In this clause, *relevant tow truck driver* means a tow truck driver who is employed or engaged by the licensee or whose services are otherwise used by the licensee.
Maximum penalty—50 penalty units.

82 Records relating to charges

- (1) It is a condition of a licence that a licensee must, in accordance with this clause, make and keep a fully itemised record of the charges made by the licensee in relation to each motor vehicle that is towed under the authority of the licence.
- (2) Each such record must provide details justifying the amounts charged in relation to the towing, salvage or storage concerned.
- (3) The licensee must—
 - (a) keep a copy of the record at the licensee's place of business for at least 5 years after it is completed, and
 - (b) keep any document or material that justifies the charging of a particular amount, and
 - (c) produce any such record or related document for inspection by an authorised officer or police officer if requested to do so, and
 - (d) permit the person to whom the record or related document is produced to make copies of, or take extracts from, the record or document or remove the record or document for the purposes of evidence.Maximum penalty—15 penalty units.
- (4) On expiry, cancellation or surrender of a licence, the former licensee must give to the Secretary any records or documents kept in accordance with this clause.
Maximum penalty—50 penalty units.

83 Invoices

- (1) A licensee, or a person acting on behalf of a licensee, must include the following in any invoice for 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,
- (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 request or require payment of a fee charged in relation to towing work unless a copy of the invoice for the work is given to the person to whom the invoice is issued.

Maximum penalty—10 penalty units.

- (3) A person must not include any matter that the person knows to be false or misleading in a material particular in an invoice for any towing work.

Maximum penalty—50 penalty units.

- (4) A licensee must—

- (a) keep at the licensee's place of business (as specified in the licence) a copy of each invoice issued by, or on behalf of, the licensee for a period of 5 years after the issue of the invoice, and
- (b) on request by an authorised officer or police officer within that period of 5 years, produce for inspection the copy of the 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 the extract, copy or invoice as evidence in any proceedings.

Maximum penalty—20 penalty units.

84 Disposal of unclaimed motor vehicles

- (1) This clause applies to a motor vehicle that—

- (a) has been towed to a holding yard of a licensee, and
- (b) is being held by the licensee.

- (2) The licensee may take action, in accordance with this clause, to sell or otherwise lawfully dispose of the vehicle if—

- (a) for a motor vehicle with a value at the time of disposal of the motor vehicle of—
 - (i) less than \$3,000—the licensee has held the motor vehicle for more than 28 days, or
 - (ii) \$3,000 or more—the licensee has held the motor vehicle for more than 6 months, and
- (b) the owner or an agent of the owner of the motor vehicle has not paid the applicable storage fees, if any, and
- (c) the owner or an agent of the owner has not contacted the licensee to arrange for the delivery, collection or continued storage of the motor vehicle.

- (3) The licensee must give the owner of the motor vehicle written notice of the licensee's intention to dispose of the motor vehicle.
- (4) However, the licensee is not required to notify the owner if the licensee is, after making all reasonable inquiries, unable to identify or locate the owner.
- (5) If the owner fails to arrange for the collection of the motor vehicle within 28 days of the notice being given to the owner, the licensee may dispose of the vehicle.
- (6) If the motor vehicle is sold and the owner of the vehicle subsequently makes a claim in respect of the vehicle, the licensee is to refund to the owner the difference (if any) between the amount for which the vehicle was sold and the amount of money payable to the licensee by the owner in respect of the towing and storage of the vehicle (including all the costs incurred by the licensee in connection with this clause).
- (7) A licensee must not dispose of the motor vehicle unless the Commissioner of Police has issued the licensee with a certificate to the effect that the vehicle is not for the time being stolen.
- (8) A licensee is not liable for any damages arising out of the disposal of a motor vehicle to which this clause applies.
- (9) A licensee who disposes of a motor vehicle under this clause must, within 7 days after the disposal, make a record that includes the following details—
 - (a) the date on which the motor vehicle was disposed of,
 - (b) the manner in which the motor vehicle was disposed of,
 - (c) if the motor vehicle was sold—
 - (i) the name and address of the person to whom the motor vehicle was sold, and
 - (ii) the amount for which it was sold,
 - (d) the make, model, type and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the vehicle,
 - (ii) the vehicle's VIN,
 - (iii) the chassis number (if any) of the vehicle,
 - (iv) the engine number (if any) of the vehicle.Maximum penalty—10 penalty units.
- (10) A record made in accordance with subclause (9) must be kept for at least 5 years after it is made.
Maximum penalty—20 penalty units.

85 Prohibited tow trucks

- (1) Subject to subclause (2), one-tonne tow trucks are prescribed as a class of prohibited tow truck for the purposes of section 56 of the Act.
- (2) A one-tonne tow truck operated under the authority of a licence is not a prohibited tow truck if the Secretary has approved its use and operation as a condition of the licence.
- (3) In this clause—

one-tonne tow truck means any tow truck that does not comply with the following requirements—

 - (a) a load capacity of at least 1.2 tonnes,
 - (b) a lifting apparatus with a safe working load of one tonne or more,

- (c) capacity to tow vehicles that exceed 2 tonnes.

86 Stand-by tow trucks

- (1) If a licensed tow truck is temporarily out of operation while undergoing repair or service, the licensee concerned may, with the approval of the Secretary, use and operate a tow truck not specified in the licence (a *stand-by tow truck*).
- (2) The licensee may apply to the Secretary for approval of the use and operation of the stand-by tow truck. The application must be made at least 72 hours (or another time approved by the Secretary) before the stand-by tow truck is used and operated in place of the licensed tow truck specified in the application.
- (3) The Secretary may approve the use and operation of a stand-by tow truck only if satisfied the following requirements will be complied with—
 - (a) the number-plate issued under section 57 of the Act to the licensed tow truck that is being replaced must be displayed on the stand-by tow truck,
 - (b) the stand-by tow truck must be registered within the meaning of the *Road Transport Act 2013* and display its registration number-plates,
 - (c) the stand-by tow truck must comply with the requirements of the Act and this Regulation, and with the conditions of the licence concerned, in relation to tow trucks,
 - (d) an approved sign must be displayed in the approved manner on the stand-by tow truck indicating that the tow truck is a stand-by tow truck.
- (4) A licensee who is using or operating a stand-by tow truck must—
 - (a) ensure that the requirements specified in subclause (3) are complied with, and
 - (b) maintain a record, in the approved form, of the use and operation of the stand-by tow truck and keep that record in the approved manner.Maximum penalty—20 penalty units.
- (5) A person must not hire, lease or supply a tow truck to a licensee for use and operation as a stand-by tow truck without the approval of the Secretary.
Maximum penalty—20 penalty units.
- (6) An approval to use and operate a stand-by tow truck may only be given if an application is made to the Secretary in the approved form and manner.
- (7) While a stand-by tow truck is being used and operated in place of a licensed tow truck in accordance with this clause, the stand-by tow truck is taken to be a licensed tow truck for the purposes of the Act and this Regulation.

Part 7 Miscellaneous provisions

87 Application fees

- (1) The fees payable for the purposes of the Act are listed in Column 5 of Part 1 of Schedule 2.
- (2) The amount of each fee is to be calculated by adding together the various components set out in Columns 3 and 4 of Part 1 of Schedule 2 in relation to that fee. The total fee is set out in Column 5 of Part 1 of that Schedule.
- (3) An amount specified in relation to an application fee in Column 4 of Part 1 of Schedule 2 under the heading “**Processing component**” is taken to be a fee to cover the costs incurred by the Secretary in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*. If an application is made by electronic communication, the processing fee is discounted (see section 13 of that Act). If an application is refused or withdrawn, the applicant is entitled to a refund of all fees paid, other than the processing fee (see section 22 of that Act).

88 Exemption relating to interstate tow truck drivers and operators

- (1) A person who holds a licence, permit or other authority issued under the law of another State or Territory that authorises the person to drive or operate a tow truck in that State or Territory is exempt from the requirements under the Act to hold a licence or drivers certificate.
- (2) The exemption does not apply to or in respect of any towing work if the towing of the vehicle concerned starts in this State.
- (3) This clause does not affect any entitlement, under the *Mutual Recognition (New South Wales) Act 1992*, of a person who holds a licence, permit or other authority issued under the law of another State or Territory to drive or operate a tow truck (including in respect of the towing of a vehicle that starts in this State) without holding a licence or drivers certificate under the *Tow Truck Industry Act 1998*.

89 Exemption relating to towing of recreational vehicles

- (1) In accordance with section 4(2)(b) of the Act, motor vehicles used or operated for the purposes of towing a recreational vehicle in the following circumstances are declared not to be tow trucks for the purposes of the Act—
 - (a) the recreational vehicle is being transported to or from a trade show within the State,
 - (b) the recreational vehicle is being transported to, from or between suppliers, manufacturers or dealers within the State or from another State or Territory,
 - (c) the recreational vehicle is being transported to or from a motor vehicle repairer.
- (2) For the purposes of this clause—
recreational vehicle includes camper trailers, campervans, caravans, fifth wheelers, motor homes, pop-top caravans and tent trailers.

90 Exemption from requirement to hold drivers certificate for mechanic in course of repairing a tow truck

- (1) For the purposes of section 6(3) of the Act, a licensed mechanic who drives a tow truck is exempt from the requirements relating to drivers certificates in the following circumstances—
 - (a) in the course of inspecting or assessing a tow truck to determine the nature and extent of repair work to be undertaken on the tow truck, or

- (b) in the course of assessing a tow truck for safety purposes or roadworthiness, and
 - (c) where that inspection or assessment is performed within 5 kilometres of any licensed place of business of the motor vehicle repairer by whom the licensed mechanic is employed and with whom the agreement for repair work is in place.
- (2) The exemption is subject to the following conditions—
- (a) the licensed mechanic must not perform an inspection or assessment at the scene of an accident,
 - (b) the licensed mechanic must produce their tradesperson’s certificate to an authorised officer or police officer on request.
- (3) A licensed mechanic is guilty of an offence if the mechanic contravenes a condition of an exemption.
Maximum penalty (subclause (2)(a))—50 penalty units.
Maximum penalty (subclause (2)(b))—15 penalty units.
- (4) In this clause—
licensed mechanic means the holder of a relevant tradesperson’s certificate or another suitably qualified person as described in section 16(1) of the *Motor Dealers and Repairers Act 2013*.
motor vehicle repairer has the meaning given by section 6 of the *Motor Dealers and Repairers Act 2013*.
repair work has the meaning given by section 6 of the *Motor Dealers and Repairers Act 2013*.

91 Exemption for medical reasons

- (1) For the purposes of section 6(3) of the Act, a certified driver is exempt from section 32 of the Act relating to the suspension of the certified driver’s driver licence if the driver licence of the certified driver is suspended (or otherwise ceases to be in force) under clause 65(1)(b) or (7) of the *Road Transport (Driver Licensing) Regulation 2017* in relation to illness, incapacity or a medical condition.
- (2) If subclause (1) applies—
- (a) the drivers certificate is suspended for the duration of the suspension of the driver licence, and
 - (b) the suspension of the drivers certificate ceases when the suspension of the driver licence ceases and the driver has been deemed medically fit to drive.

92 Exemption for expired driver licence

- (1) For the purposes of section 6(3) of the Act, a certified driver is exempt from section 32 of the Act relating to the expiry of their driver licence (as ascertained under clause 61 of the *Road Transport (Driver Licensing) Regulation 2017*).
- (2) If subclause (1) applies—
- (a) the drivers certificate is suspended from the expiry date until the licence is renewed under clause 63 of that Regulation, and
 - (b) the suspension of the drivers certificate ceases when the driver licence is renewed.

93 Exemption of certain motor vehicles

For the purposes of section 6A(f) of the Act, the Act does not apply to the towing, salvage or storage of a motor vehicle or a class of motor vehicles listed in Schedule 1.

94 Secretary's power to waive, reduce, postpone or refund fees

The Secretary may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under the Act or this Regulation if the Secretary is satisfied it is appropriate because—

- (a) the person who is to pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Example of 'special circumstances'— circumstances involving a natural disaster or recovery from a natural disaster

95 Repeal and savings

- (1) The *Tow Truck Industry Regulation 2008* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Tow Truck Industry Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Exempt motor vehicles

(Clause 93)

Part 1 Motor vehicles (including trailers)

Agricultural motorcycle (2 or 3 wheels)	Mobile crane
Agricultural plant	Mobile workshop
All terrain vehicle (4 or more wheels)	Motor grader
All terrain vehicle (restricted to NSW snow fields)	Oversnow bus
Argo	Oversnow groomer
Articulated dump truck	Oversnow trailer
Backhoe	Passenger carrying trailer
Beach cleaning machine	Purpose built table top
Bulldozer	Purpose built tipper
Cherry pickers, including boom lifts and other similar devices	Purpose built utility
Conveyor	Purpose built van
Cranes	Recreational plant
Drill rig	Rescue vehicle
Dump truck/rock buggy	Road grader
Earthwork plant	Road work plant
Electrical plant	Rollers, including road rollers, multi-tyred rollers, pad foot rollers, roller compactors, smooth drum rollers, smooth double drum rollers, steam rollers and other similar devices
Excavators, including diggers and other similar devices	Scissor lifts, table lifts and other similar devices
Firefighting plant	Skid steer loaders, including bobcats and other similar devices
Heavy plant trailer	Skidoo
Hoists	Snow plough
Honey extracting plant	Spider boom
Industrial plant	Straight boom
Integrated tool carrier	Telehandlers, including material handlers, telescopic handlers, traverse lifts and other similar devices
Knuckle boom	Three wheel truck
Lawn mower	Tractor
Load lifting plant	Trailer mounted boom
Mixer (non load-carrying)	Vertical lifts, including personnel lifts, man lifts and other similar devices
Mobile barrier stall	Wheel loader

Part 2 Trailers

Agricultural plant trailer	Lighting towers, including balloon lights, mine spec lighting, metro lighting towers, cube light towers, hydraulic lighting towers and other similar devices
Animal carrier trailer	Low loader trailer
Barrier stall/totalizator trailer	Machinery trailer
Boat trailer	Mini dumper
Bolster trailer	Mini loader
Box trailer	Motor vehicle carrier trailer
Bulk carrier trailer	Mulcher and chipper
Cage trailer	Pantehnicon trailer
Car trailer	Plant trailer
Compressors, including air compressor trailers and other similar devices	Portable buildings, including site sheds, site offices, portable toilets, toilet blocks, multi-purpose buildings, lunch rooms and other similar structures
Concrete carrier trailer	Portable traffic light
Concrete mixer trailer	Recreational plant trailer
Dolly trailer	Refrigerated van trailers, including cool rooms, fridges on trailers and other similar devices
Dump truck trailer	Roadwork plant carrier trailer
Earthwork plant trailer	Roadwork plant trailer
Electrical plant trailer	Rotary hoe
Electronic message board	Semi-trailer
Fire fighting plant trailer	Table top with fittings trailer
Fluid pump	Table top without fittings trailer
Fuel trailer	Tanker trailer
Furniture trailer	Tipper trailer
Generator	Towable site accommodation wagon
Honey extracting plant trailer	Van trailer
Horse float	Water cart trailer
Industrial plant trailer	Wheelie bin tippers, including wheelie bin lifters, dumpster bin tippers, mega dumpsters and other similar devices
Jinker trailer	

Schedule 2 Fees

Part 1 Application fees payable

(Clause 87)

Item	Column 1	Column 2	Column 3	Column 4	Column 5
	Type of application	Duration	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
Drivers certificate					
1	New certificate or restoration of certificate	1 year	0.82	1.21	2.03
2		3 years	2.46	1.21	3.67
3		5 years	4.10	1.21	5.31
4	Replacement drivers certificate	Not applicable			0.30
5	Reissue conditional drivers certificate	Not applicable			0.30
6	Re-application for expired conditional drivers certificate (within 5 business days)	Not applicable			1.11
Operator licence					
7	Operator licence (metro) or restoration of licence	1 year	6.71	3.62	10.33
8		3 years	20.13	3.62	23.75
9		5 years	33.55	3.62	37.17
10	Operator licence (country) or restoration of licence	1 year	3.03	3.62	6.65
11		3 years	9.09	3.62	12.71
12		5 years	15.15	3.62	18.77
13	Category A plate (metro)	1 year			3.88
14		3 years			11.64
15		5 years			19.40
16	Category B and C plate (metro)	1 year			3.68
17		3 years			11.04
18		5 years			18.40
19	Category A plate (country)	1 year			1.54
20		3 years			4.62
21		5 years			7.70
22	Category B and C plate (country)	1 year			1.47

Item	Column 1	Column 2	Column 3	Column 4	Column 5
	Type of application	Duration	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
23		3 years			4.41
24		5 years			7.35
25	Amendment fee	Not applicable			0.55
26	Replacement operator licence	Not applicable			0.30
27	Reissue conditional operator licence	Not applicable			0.30
28	Stand-by tow truck application fee	Not applicable			3.49
29	Re-application for expired conditional operator licence (within 5 business days)	Not applicable			3.20
	Mutual recognition				
30	Drivers certificate or restoration of certificate	1 year	0.64	0.90	1.54
31		3 years	1.92	0.90	2.82
32		5 years	3.20	0.90	4.10
33	Operator licence or restoration of licence	1 year	2.41	3.01	5.42
34		3 years	7.23	3.01	10.24
35		5 years	12.05	3.01	15.06
36	Category A plate	1 year			1.54
37		3 years			4.62
38		5 years			7.70
39	Category B and C plate	1 year			1.47
40		3 years			4.41
41		5 years			7.35
	Exemption certificate				
42	Exemption certificate (metro)	2 years	2.87	2.29	5.16
43	Exemption certificate (country)	2 years	1.72	2.29	4.01
44	Tow truck fee (metro)	Not applicable			0.86
45	Tow truck fee (country)	Not applicable			0.57
	Other				
46	Investigation fee	Not applicable			Not applicable

Item	Column 1	Column 2	Column 3	Column 4	Column 5
	Type of application	Duration	Fixed component (in fee units)	Processing component (in fee units)	Total (in fee units)
47	Book of 20 towing authorisation forms	Not applicable			4.83
48	Book of 5 towing authorisation forms	Not applicable			1.21

Part 2 Other fees payable

Item	Matter for which fee is payable	Fees (in fee units)
Light vehicles		
Towing		
1	For any accident towing work	2.43
2	For towing recovered stolen vehicles	1.60
3	For each subsequent tow	0.88
4	For each tow undertaken in excess of 10 km via the most direct route (Sydney metropolitan area)	0.0528 (per km)
5	For each tow undertaken via the most direct route in excess of 20 km (other areas)	0.0435 (per km)
6	Surcharge outside business hours	20%
Salvage from an area other than a road or road related area		
7	For the certified driver of the tow truck (after the first 30 minutes)	0.62
8	For an assistant	0.62
9	For an additional tow truck (including the driver)	2.43
10	Surcharge outside business hours	20%
Storage within an authorised holding yard		
11	For a light motor vehicle (not a motorcycle) (Sydney metropolitan area)	0.26 (maximum for each 24 hours or part thereof)
12	For a light motor vehicle (not a motorcycle) (outside Sydney metropolitan area)	0.14 (maximum for each 24 hours or part thereof)
13	For a motorcycle (Sydney metropolitan area)	0.1225 (maximum for each 24 hours or part thereof)
14	For a motorcycle (outside Sydney metropolitan area)	0.07 (maximum for each 24 hours or part thereof)

Heavy vehicles

Item	Matter for which fee is payable	Fees (in fee units)
1	Approved Class 3 conventional tow truck GCM up to 25 tonnes—	
	(a) towing—	
	(i) for the first hour, and	2.57
	(ii) per hour thereafter	1.59
	(b) stolen vehicle recovery—	
	(i) for the first hour, and	2.34
	(ii) per hour thereafter	1.59
2	Approved Class 4 (A) conventional tow truck GCM 25 to 45 tonnes—	
	(a) towing—	
	(i) for the first hour, and	2.78
	(ii) per hour thereafter	1.83
	(b) stolen vehicle recovery—	
	(i) for the first hour, and	2.55
	(ii) per hour thereafter	1.83
3	Approved Class 4 (B) conventional tow truck GCM 45 to 60 tonnes—	
	(a) towing—	
	(i) for the first hour, and	2.92
	(ii) per hour thereafter	1.96
	(b) stolen vehicle recovery—	
	(i) for the first hour, and	2.69
	(ii) per hour thereafter	1.96
4	Approved Class 4 (C) conventional tow truck GCM 60+ tonnes—	
	(a) towing—	
	(i) for the first hour, and	3.71
	(ii) per hour thereafter	2.77
	(b) stolen vehicle recovery—	
	(i) for the first hour, and	3.48
	(ii) per hour thereafter	2.77
Miscellaneous fees		
5	Second certified driver (per hour, for the period at the accident site)	0.65
6	For the cost of salvage operations after the first 30 minutes at an accident scene (per hour, excluding the use of a tow truck)	0.88
7	Administration/site coordination rate (per hour, payable for one driver only per accident/incident)	0.65
8	Charging for debris (only applies to heavy vehicles and light vehicles in regional areas with a speed limit of or above 80 kilometres per hour)	0.60

Item	Matter for which fee is payable	Fees (in fee units)
9	Surcharge for service outside business hours (surcharge payable on labour costs only outside business hours (between 8 am and 5 pm))	50%
10	All additional equipment required to complete the tow/salvage/site recovery (above the actual cost and only applies if arranged and paid for by the tow truck operator)	10%
11	Stand by rate for salvage of heavy motor vehicle	0.44
12	Storage after 72 hours (per day and payable only if the vehicle is stored awaiting collection in an authorised holding yard. Not claimable if the vehicle is awaiting repair)	0.97
Stand by rates		
13	Approved Class 3 conventional tow truck—	
	(a) for the first hour, and	1.29
	(b) for each subsequent hour or part of an hour of standing by	0.80
14	Approved Class 4 (A) conventional tow truck—	
	(a) for the first hour, and	1.39
	(b) for each subsequent hour or part of an hour of standing by	0.9135
15	Approved Class 4 (B) conventional tow truck—	
	(a) for the first hour, and	1.46
	(b) for each subsequent hour or part of an hour of standing by	0.98
16	Approved Class 4 (C) conventional tow truck—	
	(a) for the first hour, and	1.8526
	(b) for each subsequent hour or part of an hour of standing by	1.383

Part 3 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

- (1) For the purposes of this Regulation, a **fee unit** is—
- (a) in the financial year 2020–21—\$105.48, and
 - (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded down).

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.
- (2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.

Schedule 3 Penalty notice offences

1 Application of Schedule

- (1) For the purposes of section 89 of the Act—
- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2
Offence	Penalty
Offences under the Act	
Section 15	\$2,200
Section 23	\$1,100
Section 37(1)	\$550
Section 49(1)	\$1,100
Section 49A(1)	\$440
Section 50(1)	\$1,100
Section 51	\$1,100
Section 53	\$1,100
Section 56(1)	\$2,200
Section 57(2)	\$550
Section 58	\$1,100
Section 59	\$1,100
Section 60	\$1,100
Section 61(1)	\$550
Section 61(2)	\$2,200
Section 61(3)	\$1,100
Section 62(1)	\$1,100
Section 63(1)	\$1,100
Section 64	\$2,200
Section 65	\$220
Section 66(1)	\$1,100
Section 67	\$1,100
Section 68	\$1,100
Section 69	\$550

Column 1	Column 2
Offence	Penalty
Section 70	\$550
Section 71	\$1,100
Section 72(1)	\$1,650
Section 72(2)	\$550
Section 73	\$550
Section 74	\$1,100
Section 75	\$1,100
Offences under this Regulation	
Clause 20	\$440
Clause 21(3)	\$550
Clause 31	\$1,100
Clause 35(2), (4), (5), (6), (8) or (9)	\$1,100
Clause 36(2)	\$550
Clause 36(3), (4) or (5)	\$335
Clause 37(1) or (2)	\$440
Clause 38(1) or (4)	\$550
Clause 63	\$220
Clause 74(c)	\$1,100
Clause 75(1)	\$220
Clause 75(2)	\$440
Clause 78(2), (6) or (7)	\$440
Clause 79(a) or (b)	\$220
Clause 80(2)	\$1,100
Clause 81(1), (2), (3), (4) or (5)	\$1,100
Clause 82(3)	\$335
Clause 82(4)	\$1,100
Clause 83(1) or (2)	\$220
Clause 83(4)	\$440
Clause 84(9)	\$220
Clause 84(10)	\$440
Clause 86(4) or (5)	\$440
Clause 90(3)—in relation to a contravention of the condition referred to in clause 90(2)(a)	\$1,100
Clause 90(3)—in relation to a contravention of the condition referred to in clause 90(2)(b)	\$335