

Passed by both Houses



New South Wales

Tow Truck Industry Amendment Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Tow Truck Industry Amendment Bill 2007

Act No , 2007

An Act to amend the *Tow Truck Industry Act 1998* to abolish the Tow Truck Authority and transfer its functions to the Roads and Traffic Authority and to repeal provisions relating to the job allocation scheme; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Tow Truck Industry Amendment Act 2007*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Tow Truck Industry Act 1998 No 111

The *Tow Truck Industry Act 1998* is amended as set out in Schedule 1.

4 Consequential amendments of other legislation

The Acts and Regulations specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of the Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 **Amendment of Tow Truck Industry Act 1998**

(Section 3)

[1] Long title

Omit “to constitute the Tow Truck Authority and the Tow Truck Industry Advisory Council;”.

[2] The whole Act (other than Schedule 2), except where otherwise amended by this Schedule

Omit “TTA” wherever occurring. Insert instead “RTA”.

[3] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

accident means any collision, impact or other event (however caused) resulting in damage to a motor vehicle.

accident towing work means the towing or carrying away by a tow truck of a motor vehicle involved in an accident, either from the scene of the accident or from the place to which the motor vehicle has been moved following the accident.

scene of an accident means an area proximate to the point where a motor vehicle involved in an accident has, as an immediate result of the accident, come or been brought to a stationary position.

[4] Section 3 (1)

Omit the definitions of *Advisory Council*, *appointed member*, *Board*, *Director-General*, *General Manager*, *motor vehicle accident* and *TTA*.

[5] Section 3 (1)

Omit the definition of *authorised officer*. Insert instead:

authorised officer means a member of staff of the Roads and Traffic Authority Division of the Government Service who is authorised in writing by the RTA for the purposes of this Act.

[6] Part 2 Administration

Omit the Part. Insert instead:

Part 2 Functions of RTA in relation to tow truck industry

7 Functions of RTA under this Act

The RTA has the following functions under this Act:

- (a) to regulate the tow truck industry in accordance with this Act and the regulations,
- (b) to make reports and recommendations to the Minister with respect to the licensing of tow truck operators and drivers, and the design, construction and equipment of tow trucks,
- (c) to inform the public about the tow truck industry,
- (d) to promote and undertake research into the tow truck industry,
- (e) whenever it considers it necessary to do so, or is requested by the Minister to do so, to make reports or recommendations with respect to the operation of this Act or the tow truck industry.

[7] Part 4, Division 1, heading

Omit “**Job allocation scheme**”. Insert instead “**Towing authorisations**”.

[8] Sections 46–48

Omit the sections.

[9] Sections 49 and 49A

Omit section 49. Insert instead:

49 Requirement to obtain towing authorisation

- (1) A certified driver must not carry out, or attempt to carry out, any accident towing work unless a towing authorisation has been obtained for the towing work.
Maximum penalty: 50 penalty units.
- (2) However, a person is not required to comply with subsection (1) if the person is carrying out, or is attempting to carry out, the towing work:
 - (a) in accordance with any direction of a police officer or an authorised officer (including a direction that is given by telephone or other electronic transmission) to move a

motor vehicle that, in the opinion of the officer, is causing an unreasonable obstruction to traffic, to the nearest place where it no longer causes an obstruction to traffic, or

- (b) in such circumstances as may be prescribed by the regulations.
- (3) A police officer or authorised officer may only give a direction described in subsection (2) (a) if, in the opinion of the officer, the motor vehicle cannot reasonably, in the circumstances, be driven away.
- (4) The regulations may provide that a towing authorisation is required in such other circumstances as may be prescribed.
- (5) A towing authorisation required by or under this section is to be in the approved form.

49A Restrictions on obtaining towing authorisations after authority already granted

- (1) A person must not obtain, or attempt to obtain, a towing authorisation in respect of any motor vehicle if another person has obtained a towing authorisation for the motor vehicle.
Maximum penalty: 20 penalty units.
- (2) However, subsection (1) does not apply if the towing work authorised by the towing authorisation concerned has been completed.

[10] Section 50 Restrictions on obtaining towing authorisations

Omit section 50 (1) (d) and (e).

[11] Section 50 (2)

Omit the subsection.

[12] Section 54 Towing and other charges

Omit “from time to time” from section 54 (1).

Insert instead “, by order published in the Gazette,”.

[13] Section 57 Tow truck number-plates

Omit “, according to the advice of the TTA,” from section 57 (1).

[14] Section 60 Licensee required to keep certain records

Omit “motor vehicle” from section 60 (2) (b) (iii).

- [15] Sections 61, 63 and 65–70**
Omit “a motor vehicle accident” wherever occurring.
Insert instead “an accident”.
- [16] Section 91 Tow Truck Industry Fund**
Omit “TTA” from section 91 (1) (a). Insert instead “RTA under this Act”.
- [17] Section 91 (1) (a1)**
Omit “officers of the TTA”. Insert instead “the RTA or authorised officers”.
- [18] Section 91 (1) (b)**
Omit the paragraph. Insert instead:
(b) all money borrowed by or advanced to the RTA for the purposes of this Act or appropriated by Parliament for the purposes of the RTA under this Act.
- [19] Section 91 (3) (b)**
Omit “TTA” wherever occurring. Insert instead “RTA under this Act”.
- [20] Section 91 (3) (c)**
Omit the paragraph.
- [21] Section 93 Financial year**
Omit the section.
- [22] Section 94 Recovery of money**
Omit the section.
- [23] Section 95 Arrangements for supply of Police records**
Omit “and the RTA” and “or the RTA” from section 95 (1).
- [24] Section 97 Delegation**
Omit the section.
- [25] Section 99 Disclosure of information**
Omit “(or any other Act conferring or imposing functions on the TTA)” from section 99 (1).

[26] Section 101 Evidence

Omit “the General Manager, or by an officer authorised by the TTA” from section 101 (2).

Insert instead “the Chief Executive of the RTA, or by a member of staff of the RTA authorised by the Chief Executive”.

[27] Section 102 Service of documents

Insert “or facsimile transmission” after “by post” in section 102 (1) (c).

[28] Section 102 (3)

Omit the subsection. Insert instead:

- (3) A document may be served on the RTA under this Act by leaving it at, or by sending it by post to, the Head Office of the RTA or any of its other offices as may be prescribed by the regulations.

[29] Section 104 Protection from personal liability

Omit the section.

[30] Section 105 Regulations

Omit section 105 (2) (o).

[31] Section 108 Amendment of other Acts

Omit the section.

[32] Schedule 1 Members and procedure of Board and Advisory Council

Omit the Schedule.

[33] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

Tow Truck Industry Amendment Act 2007

[34] **Schedule 2, Part 4**

Insert at the end of the Schedule:

**Part 4 Provisions consequent on enactment of
Tow Truck Industry Amendment Act 2007**

10 Definitions

In this Part:

amending Act means the *Tow Truck Industry Amendment Act 2007*.

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money, securities and choses in action).

document means any Act (other than this Act) or statutory instrument, or any other instrument, or any other contract or agreement.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

relevant commencement date means the day on which section 7 as substituted by the amending Act commences.

rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

11 Abolition of Tow Truck Authority

The Tow Truck Authority is abolished on the relevant commencement date.

12 Transfer of assets

The assets, rights and liabilities of the Tow Truck Authority as at the relevant commencement date become the assets, rights and liabilities of the Roads and Traffic Authority.

13 Action taken by Tow Truck Authority

Anything done by the Tow Truck Authority and having effect immediately before the relevant commencement date is taken to have been done by the RTA.

14 References to Tow Truck Authority

In any document, a reference to the Tow Truck Authority is to be read as or as including a reference to the RTA.

15 Annual report of the Tow Truck Authority for the 2006–2007 financial year

The annual report of the Tow Truck Authority for the 2006–2007 financial year is taken to include the period commencing 1 July 2007 and ending on the relevant commencement date. Accordingly, for the purposes of the *Annual Reports (Statutory Bodies) Act 1984*, the 2006–2007 financial year of the Tow Truck Authority is taken to end on the relevant commencement date.

[35] Schedule 3 Amendment of other Acts

Omit the Schedule.

Schedule 2 Consequential amendments of other legislation

(Section 4)

2.1 Administrative Decisions Tribunal (General) Regulation 2004

Clause 11 Reviewable decisions excluded from internal review under section 53 of the Act

Omit “Tow Truck Authority” from clause 11 (g).

Insert instead “Roads and Traffic Authority”.

2.2 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Tow Truck Authority”.

2.3 Road Transport (General) Act 2005 No 11

Section 230 Certificate evidence

Omit “, or any record kept by or on behalf of the Tow Truck Authority relating to the operation of a job allocation scheme established under Part 4 of that Act” from section 230 (3).

2.4 Road Transport (General) Regulation 2005

Schedule 2 Authorised officers

Omit the definition of *Class 5 officer*.

2.5 Road Transport (Safety and Traffic Management) Act 1999 No 20

[1] Section 75 Removal of dangers and obstructions to traffic

Omit section 75 (1A), (1B) and (3A) (b).

[2] Section 76 Removal of unattended motor vehicles or trailers from certain places

Omit “or the Tow Truck Authority” from section 76 (1) wherever occurring.

2.6 Transport Administration Act 1988 No 109

[1] Section 46 Constitution of RTA

Insert “, the *Tow Truck Industry Act 1998*” after “the *Road Transport (Driver Licensing) Act 1998*” in section 46 (2) (a).

[2] Section 78 Payments into Roads and Traffic Authority Fund

Insert after section 78 (1) (b) (ii):

- (ia) any money received under the *Tow Truck Industry Act 1998*, and