

# Tow Truck Industry Regulation 1999

[1999-545]



New South Wales

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New South Wales

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# Tow Truck Industry Regulation 1999



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Tow Truck Industry Regulation 1999*.

### 2 Commencement

This Regulation commences on 8 October 1999.

### 3 Definitions

(1) In this Regulation:

**imprisonment** includes penal servitude, home detention, periodic detention or a suspended sentence of imprisonment.

**owner** of a motor vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport (General) Act 1999*.

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

(2) The explanatory note, table of contents and notes in the text of 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) 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 equipped with a trailer that is capable of carrying more than 3 vehicles at any one time.

## Part 2 Licences and drivers certificates

### Division 1 Provisions relating to licences

#### 5 Particulars to be included in licence applications: section 17 (2) (g)

For the purposes of section 17 (2) (g) of the Act, the following particulars are prescribed:

- (a) if the applicant is an individual—the name of the applicant (including any aliases by which the applicant is or was known), and the applicant’s current residential address and date of birth,
- (b) if the applicant is a corporation—the name of the corporation, the name and residential address of each director, the address of the registered office of the corporation (if different from the applicant’s place of business) and the certificate of incorporation,
- (c) in the case of a business that is to be carried on in partnership—the name of the partnership and the name, current residential address and date of birth of each partner,
- (d) the trading name (if any) of the business that is to be operated under the authority of the licence and evidence that it has been registered as a registered business name,
- (e) (Repealed)
- (f) the name, current residential address and date of birth of each person who is employed or engaged by the applicant to drive, use or operate tow trucks as part of the applicant’s business,
- (g) the name, current residential address and date of birth of each close associate of the applicant (including any aliases by which the close associate is or was known),
- (h) proof that the applicant owns or is the lessee of any place specified for use as a holding yard in carrying on the applicant’s business,
- (i) proof that the applicant has obtained public liability and “on-hook” liability insurance.

**Note—**

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

#### 6 Application for licence: section 17 (2) (h)

- (1) In this clause, **licence application fee** means the fee referred to in section 17 (2) (h) of the Act.
- (2) The TTA may refuse to determine an application for a licence until the licence

application fee is paid.

- (3) If the application is made in respect of a business carried on in partnership, a single licence application fee is payable.
- (4) A licence application fee is non-refundable.

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

- (1) For the purposes of section 18 (2) (b) and (3) (i) of the Act, the following offences are prescribed (regardless of whether they were committed in New South Wales):
  - (a) any offence involving an assault of any kind against a person,
  - (b) any offence relating to the possession or use of a firearm or other weapon,
  - (c) any offence involving the supply or possession of a prohibited drug (within the meaning of the [Drug Misuse and Trafficking Act 1985](#)),
  - (d) any offence involving fraud, dishonesty or stealing,
  - (e) any offence involving robbery (whether armed or otherwise),being an offence in respect of which the penalty imposed was imprisonment, or a monetary penalty of more than \$1,000, or both.
- (2) (Repealed)

**8 Qualifications of tow truck operators: section 18 (3) (g)**

- (1) The TTA may determine competency standards in relation to tow truck operators. The standards may include levels of accreditation.
- (2) The standards may be developed by the TTA in consultation with the tow truck industry, or be prepared by any other person or body and endorsed by the TTA.
- (3) If the TTA determines any such competency standards, the standards must be published in the Gazette.
- (4) For the purposes of section 18 (3) (g) of the Act, any competency standards determined by the TTA and published in the Gazette are prescribed.

**9 Additional grounds for refusing licence application: section 18 (4)**

For the purposes of section 18 (4) of the Act, an application for a licence may be refused if any close associate of the applicant has, within the period of 5 years before the application for the licence was made:

- (a) been refused the grant of a licence, or



- (b) had his or her licence permanently revoked.

#### **10 Licence conditions: section 20 (2) (l)**

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

- (a) the licensee must ensure that each person who is employed or engaged by the licensee to drive a licensed tow truck is provided with, and is given an opportunity to read, a copy of an approved summary of the Act and this Regulation,
- (b) the licensee must explain to each such person the provisions of the approved summary,
- (c) the licensee must ensure that each person who is employed or engaged by the licensee to drive a licensed tow truck signs and dates a written declaration to the effect that the person understands his or her obligations under the Act and this Regulation,
- (d) the licensee must sign and date a written declaration to the effect that the licensee has complied with the conditions referred to in paragraphs (a)–(c),
- (e) the licensee must keep each such signed declaration at the licensee’s place of business for such time as the person is employed or engaged by the licensee and produce a copy on request to an authorised officer or send a copy to the TTA on receipt of a notice in writing by the TTA,
- (f) the licensee must ensure that each driver complies with any directions of the TTA relating to the wearing or use of clothing or equipment for protection or safety purposes,
- (g) the licensee must keep a record of the registration details of each tow truck operated by the licensee,
- (h) except as provided by clause 68, the licensee may only operate under the authority of the licence the licensed tow trucks that are specified in the licence,
- (i) the licensee must hold public liability and “on-hook” liability insurance.

#### **11 Payment of licence fee: section 21**

- (1) In this clause, **licence fee** means the fee referred to in section 21 of the Act.
- (2) The TTA may refuse to grant a licence until the licence fee is paid.
- (3) If the licence is granted in respect of a business carried on in partnership, a single licence fee is payable.

## **12 Exemption from certain licence conditions for tow trucks registered interstate**

- (1) This clause applies to a licensee who intends to operate tow trucks that are registered outside New South Wales.
- (2) A licensee to which this clause applies is exempt from the provisions of section 20 (2) (e) of the Act, but only if the licensee ensures that each licensed tow truck displays, on the front and back of the tow truck in an approved manner, and so as to be clearly legible, a sign approved for the purposes of this clause.

## **Division 2 Provisions relating to drivers certificates**

### **13 Particulars to be included in drivers certificate applications: section 25 (2) (b)**

- (1) For the purposes of section 25 (2) (b) of the Act, the following particulars are prescribed:
  - (a) the name of the applicant (including any aliases by which the applicant is or was known), and the applicant's current residential address and date of birth,
  - (b) if applicable, the name and licence number of the applicant's employer,
  - (c) in the case of an applicant who has not previously held a drivers certificate under the Act or whose drivers certificate has lapsed or been revoked—2 written references from persons who are members of any of the following professions, who have known the applicant for more than 12 months, and who can attest that the applicant is of good character and, in the opinion of the referee, a fit and proper person to hold a drivers certificate:
    - (i) accountants (namely, members of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants, the National Institute of Accountants or the Association of Taxation and Management Accountants, or registered tax agents)
    - (ii) bank managers,
    - (iii) legal practitioners and patent attorneys,
    - (iv) clerks of court,
    - (v) registered medical practitioners,
    - (vi) judges,
    - (vii) members of the Chartered Institute of Company Secretaries in Australia,
    - (viii) public sector employees who have been employed full-time continuously for at least 5 years,

- (ix) teachers who have been teaching full-time for at least 5 years at schools or tertiary institutions,
  - (x) ministers of religion,
  - (xi) current or previous employers of the applicant,
  - (xii) justices of the peace,
  - (xiii) persons who have held a tow truck operators licence continuously for at least 5 years,
- (d) a recent colour photograph (as specified in the approved application form) of the applicant's head and shoulders only, that clearly shows the applicant's face, that has been certified by one of the applicant's referees to be a true likeness of the applicant.
- (2) For the purposes of subclause (1) (c), a drivers certificate is taken to have lapsed if the holder of the certificate did not make an application for a subsequent drivers certificate in accordance with the Act on or before the date on which the drivers certificate ceased to be in force.

#### **14 Application for drivers certificate: section 25 (2) (c)**

- (1) In this clause, **drivers certificate application fee** means the fee referred to in section 25 (2) (c) of the Act.
- (2) The TTA may refuse to determine an application for a drivers certificate until the drivers certificate application fee is paid.
- (3) A drivers certificate application fee is non-refundable.

#### **15 Offences that disqualify applicants for drivers certificates: section 26 (2) (b)**

- (1) For the purposes of section 26 (2) (b) of the Act, the following offences are prescribed (regardless of whether they were committed in New South Wales):
  - (a) any offence involving an assault of any kind against a person,
  - (b) any offence relating to the possession or use of a firearm or other weapon,
  - (c) any offence involving the supply or possession of a prohibited drug (within the meaning of the [Drug Misuse and Trafficking Act 1985](#)),
  - (d) any offence involving fraud, dishonesty or stealing,
  - (e) any offence involving robbery (whether armed or otherwise),being an offence in respect of which the penalty imposed was imprisonment for any period, or a monetary penalty of more than \$1,000, or both.

- (2) (Repealed)

**16 Qualifications of tow truck drivers: section 26 (3) (b)**

- (1) The TTA may determine competency standards in relation to tow truck drivers. The standards may include levels of accreditation.
- (2) The standards may be developed by the TTA in consultation with the tow truck industry, or be prepared by any other person or body and endorsed by the TTA.
- (3) If the TTA determines any such competency standards, the standards must be published in the Gazette.
- (4) For the purposes of section 26 (3) (b) of the Act, any competency standards determined by the TTA and published in the Gazette are prescribed.

**17 Additional grounds for refusing application for drivers certificate: section 26 (4)**

- (1) For the purposes of section 26 (4) of the Act, the grounds on which an application for a drivers certificate must be refused include any case in which:
  - (a) the applicant has been disqualified from holding a driver licence, or
  - (b) the applicant's driver licence has been suspended or cancelled (other than for fine default under the [Fines Act 1996](#)),on more than one occasion during the period of 3 years before the application for the driver certificate was made.
- (2) For the purposes of subclause (1), the 3-year period in respect of which the applicant must be refused a drivers certificate commences on the last day of the applicant's most recent period of disqualification or period of driver licence suspension or cancellation.

**18 Particulars on drivers certificate: section 28 (2) (d)**

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, and
- (b) the driver licence number of the certified driver.

**19 Conditions of drivers certificate: section 29**

For the purposes of section 29 (2) (c) of the Act, it is a condition of a drivers certificate that the certified driver complies with any directions of the TTA relating to the wearing or use of clothing or equipment for protection or safety purposes.

## **20 Payment of drivers certificate fee: section 30**

The TTA may refuse to grant a drivers certificate until the fee referred to in section 30 of the Act is paid.

## **Division 3 General provisions**

### **21 Variation of licence conditions**

If a licensee or certified driver applies for an amendment of the licence or drivers certificate concerned in accordance with section 35 of the Act, the TTA may charge the applicant a fee of \$50 in respect of the application.

### **22 Refund of fees if licence or drivers certificate voluntarily surrendered**

- (1) If a licensee or certified driver voluntarily surrenders the licence or drivers certificate in accordance with section 40 of the Act, the TTA may, but is not required to, refund part of the fee paid for the granting of the licence or drivers certificate. The amount to be refunded is to be determined by the TTA.
- (2) In determining the amount of any such refund, the TTA may retain an administration fee of \$50.

### **22A Pending application for subsequent licence or drivers certificate**

If:

- (a) a person who is 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 person 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,

the authority conferred by the current licence or drivers certificate continues until such time as the person is notified of the granting or refusal of the subsequent licence or drivers certificate.

## **Part 3 Job allocation scheme**

### **Division 1 Preliminary**

#### **23 Definitions**

In this Part:

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

**accident scene** 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.

**accident towing work** means the towing by a tow truck of a motor vehicle from an accident scene, and includes any salvage or recovery work carried out by a tow truck at the accident scene in relation to the motor vehicle.

**ambulance breakdown towing work** means the towing by a tow truck of an ambulance that has broken down.

**area** means an area of the State specified in a JAS order.

**call centre** means the person or body authorised by the TTA to administer and operate a JAS.

**JAS** means a job allocation scheme established for an area by an order under clause 25.

**JAS order** means an order under clause 25.

**JAS start time** for an area means the time, as specified in a JAS order, when the JAS starts to operate in the area.

**job allocation zone** means a job allocation zone as described in clause 26 (1).

**limited access towing work** means towing work that is required to be carried out by a one-tonne tow truck to which clause 67 (2) applies.

**obstruction towing work** means the towing by a tow truck of a motor vehicle that is standing illegally or is causing an obstruction to traffic (being towing work that is carried out in accordance with section 75 or 76 of the [Road Transport \(Safety and Traffic Management\) Act 1999](#)).

**police towing work** means any towing work by a tow truck that is arranged by the Police Service:

- (a) for towing a motor vehicle that is required by the Police Service to be examined for forensic purposes, or
- (b) for towing a motor vehicle that, in the opinion of a police officer, is causing an unreasonable obstruction to traffic (but only to the extent that it is necessary to tow the vehicle so that it is no longer causing the obstruction).

**relevant roster** means the roster for the job allocation zone in which a motor vehicle that is to be towed is located.

**roster** means the rotating roster maintained by the call centre in relation to each job allocation zone for the purpose of allocating towing work.

**slot** means a position on a roster.

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

## Division 2 Administration and operation of JAS

### Note—

The Act (and therefore a JAS under this Part) does not apply to tow trucks operated by the Crown or a statutory body representing the Crown, but it does apply to persons who carry out tow truck operations under a contract or arrangement made or entered into with the Crown or a statutory body representing the Crown. (See section 6 of the Act.)

### 24 Towing work to which JAS applies

- (1) A JAS applies to the following kinds of towing work:
  - (a) accident towing work,
  - (b) ambulance breakdown towing work,
  - (c) limited access towing work,
  - (d) obstruction towing work,
  - (e) police towing work.
- (2) The kinds of towing work to which a JAS applies in relation to a particular area may be modified or varied by a JAS order.

### Note—

For example, a JAS order may provide that “heavy” towing work is excluded from the operation of the JAS for a particular area even though it might be classed as accident towing work.

- (3) In addition to the towing work to which a JAS applies, the call centre may, if notified by the owner or driver of a motor vehicle that the vehicle has broken down and requires towing, allocate the towing work in accordance with the JAS.

### 25 JAS order

The Minister may, by order published in the Gazette, specify:

- (a) the area to which the order applies, and
- (b) the JAS start time for the area, and
- (c) the period for which a JAS is to operate in the area, and
- (d) the particular kinds of towing work to which the JAS applies in the area.

**Note—**

Section 43 (2) of the [Interpretation Act 1987](#) provides that if a regulation confers a power on any person to make an order, the power includes power to amend or repeal any order made in the exercise of that power.

## **26 Elements of JAS**

(1) A JAS comprises the following elements:

- (a) an area is to consist of such job allocation zones as are shown on a map prepared and published by the TTA from time to time,
- (b) a rotating roster is to be maintained for each such job allocation zone and is to be operated on a continual basis,
- (c) the call centre is to administer and manage the rosters,
- (d) towing work to which the JAS applies is to be allocated according to the roster for the job allocation zone in which the motor vehicle that is to be towed is located,
- (e) each roster is to have a number of slots,
- (f) a participant may be assigned, by the call centre or the TTA, a slot (or slots) on the roster (or rosters) for which the participant has applied.

**Note—**

Section 46 (3) of the Act defines **participant**.

(2) The maximum number of slots that a participant may be assigned is:

- (a) 10, or
  - (b) the number of licensed tow trucks operated by the participant,
- whichever is the lesser.

## **27 Operation of JAS**

(1) A JAS operates in the following manner:

- (a) the call centre is notified that a motor vehicle requires towing by a tow truck,
- (b) except as provided by subclause (2), the call centre allocates the towing work to the participant who has been assigned the slot that is, at the time of notification, at the top of the relevant roster,
- (c) an identifying number is assigned to the allocated towing work (**the job allocation number**),
- (d) the participant who has been allocated the towing work is responsible for the towing work being properly undertaken and completed.



- (2) In the following circumstances, the call centre is to allocate the towing work, in the order of priority under the relevant roster, to a participant who is identified on that roster as being able to carry out the towing work:
  - (a) if any ambulance towing work, limited access towing work or police towing work is to be carried out,
  - (b) if the owner or driver of the motor vehicle that needs to be towed informs the call centre, at the time when the call centre is notified that the vehicle needs to be towed, that the vehicle can only be towed by a particular type of tow truck because of the special make or type of the vehicle,
  - (c) if the call centre, having regard to the circumstances of the case, considers that a particular type of tow truck is required to carry out the towing work concerned.
- (3) If there is no participant on the relevant roster who is identified as being able to carry out particular towing work, the call centre is to allocate the work, in the order of priority under the roster in an adjacent job allocation zone, to a participant who is identified on that roster as being able to carry out that towing work.
- (4) The call centre may allocate any towing work that is unable to be carried out by participants in a particular job allocation zone to participants in an adjacent job allocation zone in the order of priority under the roster in that adjacent zone.

**Note—**

An example of a situation in which the call centre will need to allocate towing work to participants outside the relevant job allocation zone is where there is an accident involving more vehicles than there are participants on the roster for the zone.

## **28 Application for participation in JAS**

- (1) A licensee may apply to participate in a JAS by:
  - (a) lodging with the TTA an application in the approved form, and
  - (b) paying the application fee as determined by the TTA.
- (2) The TTA may determine periods between which licensees may apply to participate in a JAS. Any such period must not exceed 2 years.
- (3) A person must not, in respect of an application made under this clause, make any statement which the person knows to be false or misleading in a material particular.  
Maximum penalty: 25 penalty units.
- (4) The TTA may waive the application fee under subclause (1) (b) in such cases as it thinks fit.
- (5) The TTA may approve a licensee who has applied under this clause to participate in a

JAS or may refuse the application.

## **29 JAS number plates**

- (1) The TTA is to issue participants with distinctive number plates for tow trucks that are to be operated under a JAS.
- (2) A participant must not sell, or otherwise transfer, any JAS number plates to another person.

Maximum penalty (subclause (2)): 25 penalty units.

## **30 Permanent withdrawal from JAS**

- (1) A participant may, with the approval of the TTA and in accordance with this clause, withdraw permanently from one or more slots in a JAS.
- (2) The participant must give the TTA at least 6 weeks (or such lesser period as may be approved) written notice in the approved form of the proposed withdrawal.
- (3) A licensee must, within 7 days of permanently withdrawing from all the licensee's slots in the JAS, return any JAS number plates issued by the TTA to the licensee.

Maximum penalty: 20 penalty units.

## **31 Temporary withdrawal from JAS**

- (1) A participant may, with the approval of the TTA and in accordance with this clause, withdraw temporarily from one or more slots in a JAS at any time except during the following periods:
  - (a) the Christmas period (ie the period starting on Christmas Eve in each year and ending at midnight on 2 January of the following year),
  - (b) the Easter period (ie the period starting at 6 pm on the Wednesday before Good Friday in each year and ending at 6 pm on the Tuesday immediately following that Good Friday),
  - (c) any other period specified by the TTA by notice published in the Gazette.
- (2) Notice of the proposed withdrawal is to be given in the approved manner.
- (3) If approved by the TTA, a temporary withdrawal from a JAS is to be for the period determined by the TTA.
- (4) The TTA may refuse to give its approval unless such fee as may be determined by the TTA has been paid to the TTA.

### **32 Failure to carry out allocated tow**

- (1) A participant must ensure that any towing work that has been allocated to the participant is carried out within such time and manner as may be specified by the call centre.
- (2) If a participant fails to carry out more than 3 allocated tows within any such specified time or manner, the participant may be suspended by the TTA from participation in the JAS concerned for a period of up to one month.

### **33 Failure to comply with direction of call centre relating to salvage or recovery work**

A participant who has been allocated towing work must comply with any direction given by the call centre relating to any part of the towing work that involves salvage or recovery work.

Maximum penalty: 20 penalty units.

### **34 Multiple towing from accident scene**

- (1) A participant may tow more than one motor vehicle by use of a tow truck from the scene of an accident involving the motor vehicle only if:
  - (a) the participant has obtained a job allocation number and a towing authorisation in respect of each vehicle that the participant wishes to tow, and
  - (b) the tow truck to be used for the towing is capable of safely towing each of those vehicles.
- (2) A participant who tows more than one vehicle from the scene of an accident involving the motor vehicle must not charge, in respect of each vehicle towed, more than the amount determined by the TTA under section 54 of the Act.

### **35 Failure to meet obligations under JAS constitutes grounds for taking disciplinary action**

For the purposes of section 42 (l) of the Act, the following are prescribed as reasons for taking disciplinary action against a participant under Division 4 of Part 3 of the Act:

- (a) failure by the participant to comply with the participant's obligations under a JAS,
- (b) repeated attempts by the participant to obtain the TTA's approval to temporarily withdraw from a JAS.

### **36 Authorising or permitting unallocated towing work to be carried out**

A person must not, in respect of any towing work to which a JAS applies, authorise or permit the driver of a tow truck to carry out the towing work if the person knows that the driver has not been allocated the towing work in accordance with the JAS.

Maximum penalty: 50 penalty units.

## **Division 3 Towing authorisations**

### **37 Additional circumstances in which towing authorisation required (non-JAS accident towing work)**

- (1) In accordance with section 49 (4) of the Act, a person must not carry out, or attempt to carry out, any accident towing work (other than accident towing work to which a JAS applies) unless a towing authorisation has been obtained for the towing work.

Maximum penalty: 50 penalty units.

**Note—**

Section 49 (1) of the Act provides that a person who is carrying out towing work allocated under a JAS is required to obtain a towing authorisation for the towing of the motor vehicle.

- (2) However, a person is not required to obtain a towing authorisation for any such accident towing work if:
  - (a) an authorised officer or police officer has indicated to the person that a towing authorisation is not required for the towing work, and
  - (b) the towing is carried out in accordance with the directions of the authorised officer or police officer.

### **38 Exception from requirement to obtain towing authorisation for JAS towing work: section 49 (2) (b)**

In accordance with section 49 (2) (b) of the Act, a person is not required to obtain a towing authorisation for any towing work to which a JAS applies 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 is carried out in accordance with the directions of the authorised officer.

**Note—**

Section 49 (2) (a) of the Act also provides that a person is not required to obtain a towing authorisation for JAS towing work in certain circumstances.

### **39 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 the required towing authorisations, 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 who has not obtained a towing authorisation) must not remain at the scene of the accident.

Maximum penalty: 50 penalty units.

#### **40 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) a police officer, or
- (c) an authorised officer.

#### **41 Completion of, and dealing with, towing authorisations**

- (1) A towing authorisation must:
  - (a) be in the approved form, and
  - (b) be included in a towing authorisation book, and
  - (c) be signed by the person giving the authorisation and by the driver of the tow truck, and
  - (d) specify a place as the place to which the motor vehicle is to be towed, and
  - (e) otherwise be completed (to the extent that is reasonably practicable in the circumstances) by inserting the information required by the approved form.
- (2) Towing authorisation forms in a towing authorisation book must be used consecutively in order of serial number.
- (3) In the case of a towing authorisation for towing work obtained in an area before the JAS start time for the area, the original towing authorisation and 2 copies must be completed.
- (4) In the case of a towing authorisation obtained in an area after the JAS start time for the area, the original towing authorisation and 3 copies must be completed.

#### **42 False information in towing authorisations**

A person must not record anything in a towing authorisation that the person knows to be false or misleading.

Maximum penalty: 20 penalty units.

#### **43 Other requirements relating to towing authorisations**

- (1) 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, and
- (d) in the case of a towing authorisation for towing work to which a JAS applies—attach a copy of the towing authorisation in the approved manner to the motor vehicle to be towed.

Maximum penalty: 50 penalty units.

- (2) In the case of a towing authorisation for towing work other than towing work to which a JAS applies, the person who obtains the towing authorisation must, before towing the motor vehicle by a tow truck, complete and attach to the motor vehicle in the approved manner a notice (***the towing notice***) that is in the approved form and that 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 place to which the motor vehicle is to be towed.

Maximum penalty: 50 penalty units.

- (3) A person must not remove a copy of a towing authorisation or a towing notice that is attached to a motor vehicle in accordance with subclause (1) (d) or (2) unless:

- (a) the person is the insurer of the motor vehicle, or
- (b) in any case where the motor vehicle is not insured—the person is the owner or driver of the motor vehicle, or
- (c) the person is acting under the written authority of a person referred to in paragraph (a) or (b).

Maximum penalty: 50 penalty units.

- (4) 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.

#### **44 Towing authorisation books**

- (1) The TTA 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.

Maximum penalty: 25 penalty units.

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

Maximum penalty: 15 penalty units.

- (4) A certified driver must produce the towing authorisation book in the driver's possession for inspection on demand 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.

#### **45 Keeping and production of towing authorisations**

- (1) A copy of any towing authorisation received by a licensee must be provided by the licensee to the TTA within 28 days of the towing authorisation being completed.

Maximum penalty: 5 penalty units.

- (2) A licensee must:

- (a) keep the following for at least 5 years 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) any towing authorisation book that has been issued to the licensee, and

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

access, and

- (c) allow the person to whom such a towing authorisation or towing authorisation book is produced to take extracts from, or to make copies of, the authorisation or book or to remove the authorisation or book for the purposes of evidence.

Maximum penalty: 20 penalty units.

- (3) If a licence expires or is revoked or surrendered, the person to whom the licence was issued must return to the TTA 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**

### **46-51 (Repealed)**

## **Part 5 Holding yards**

### **52 Location of holding yards**

It is a condition of a licence that any holding yard of the licensee must, unless otherwise approved, be located no more than 10 kilometres from the licensee's place of business.

### **53 Security requirements**

- (1) Except as provided by subclause (2), a licensee must ensure that any holding yard of the licensee:
  - (a) is surrounded 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 an approved security alarm system installed.
- (2) The TTA may, by notice in writing, exempt a licensee from any requirement under subclause (1). Such an exemption may be granted subject to the condition that the licensee comply with a requirement specified in the notice.

### **54 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.

#### **55 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.

#### **56 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 any holding yard of the licensee.
- (2) The following particulars are to be recorded in the 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 make, model, type and colour of the motor vehicle,
  - (d) the registration number of the motor vehicle, or, if there is no registration number, the chassis number or the engine number (if any) of the vehicle,
  - (e) if the motor vehicle was towed in accordance with the job allocation scheme, the relevant job allocation number,
  - (f) the serial number of the towing authorisation obtained in relation to the motor vehicle.

### **Part 6 Other offences and requirements**

#### **57 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.

#### **58 Misuse of licences and drivers certificates**

A person must not:

- (a) forge or fraudulently alter a licence or drivers certificate (whether or not it is in force),

or

- (b) give possession of a licence or drivers certificate to another person for the purpose of using it 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.

#### **59 Lost or stolen etc licences and drivers certificates**

A licensee or certified driver must, within 7 days of becoming aware that the licence or drivers certificate has been lost, stolen, damaged, destroyed, altered or defaced:

- (a) notify the TTA in writing of that occurrence, and
- (b) in the case of a damaged, altered or defaced licence or drivers certificate—return it to the TTA.

Maximum penalty (paragraph (a)): 5 penalty units.

Maximum penalty (paragraph (b)): 20 penalty units.

#### **60 Tow truck equipment: section 55 (1)**

- (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 of an approved kind,
  - (b) fully adjustable mounted lights 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 removal of accident debris, and
  - (b) a foam or dry chemical powder fire extinguisher of at least 4.5 kg capacity, and that the fire extinguisher is maintained in a serviceable condition.

#### **61 Particulars to be displayed on tow trucks**

A person must not drive, stand or operate, or allow to be driven, stood or operated, a tow truck that is being operated under the authority of a licence unless there is displayed (by being printed in block letters and figures at least 50 mm high) on the right-hand or off-

side of the tow truck and so as to be clearly legible:

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

Maximum penalty: 10 penalty units.

## **62 Inspection of tow trucks: section 82**

- (1) The TTA or an authorised officer may, by notice in writing given to a tow truck operator (an ***inspection notice***), require the production of a specified tow truck under the operator's control for inspection by a person authorised by the TTA.

- (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 operator to comply with the requirement.

- (4) The person authorised by the TTA 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 TTA 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: 10 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 concerned.

### **63 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 such other manner that it remains clearly visible.

Maximum penalty: 5 penalty units.

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

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

Maximum penalty (subclause (1) (a)): 25 penalty units.

Maximum penalty (subclause (1) (b) and (c)): 50 penalty units.

- (2) The licensee holding the licence under which the tow truck is being operated must ensure that each tow truck driver whose services are being used by the licensee complies with subclause (1).

Maximum penalty: 5 penalty units.

## **65 Record 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 full 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 a 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.
- (4) On expiry, cancellation or surrender of a licence, the licensee must provide to the TTA any records or documents kept in accordance with this clause.

## **66 Disposal of unclaimed motor vehicles**

- (1) This clause applies to any motor vehicle that:
  - (a) has a value of less than \$500, and
  - (b) has been towed to any holding yard of a licensee, and
  - (c) is being held by the licensee.
- (2) If:
  - (a) a motor vehicle to which this clause applies has been held by the licensee for more than 28 days, and
  - (b) no arrangement has been made during that period by the owner of the vehicle for its collection,the licensee may take action, in accordance with this clause, to sell or otherwise lawfully dispose of the 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. 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.

- (4) If the owner of the motor vehicle 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.
- (5) 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).
- (6) A licensee cannot dispose of a motor vehicle to which this clause applies 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.
- (7) A licensee is not liable for any damages arising out of the disposal of a motor vehicle to which this clause applies.
- (8) A licensee is not entitled to rely on this clause unless the licensee establishes that the motor vehicle disposed of had, at the time of disposal, a value of less than \$500.
- (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—the name and address of the person to whom the motor vehicle was sold and the amount for which it was sold,
  - (d) the make, model, type, colour, registration number (if any), chassis number (if any) and engine number (if any) of the motor vehicle.

Maximum penalty: 5 penalty units.

- (10) Any such record made must be kept for at least 5 years after it is made.

Maximum penalty: 20 penalty units.

## **67 Prohibited tow trucks: section 56**

- (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 that is operated under the authority of a licence is not a prohibited tow truck if the TTA 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.

(4) This clause does not have any effect until after the end of the period of 12 months following its commencement.

## **68 Stand-by tow trucks**

- (1) If a licensed tow truck is temporarily out of operation while undergoing repair or service, the licensee concerned may use and operate a tow truck (other than a tow truck specified in the licence) in place of the licensed tow truck, but only with the approval of the TTA. Such a tow truck is referred to in this clause as a **stand-by tow truck**.
- (2) A licensee may apply to the TTA, in the approved form and manner, for approval of the use and operation of a stand-by tow truck. Such an application must be made at least 72 hours (or such other time as may be approved by the TTA) before the stand-by tow truck is used and operated in place of the licensed tow truck specified in the application.
- (3) The TTA may approve the use and operation of a stand-by tow truck only if the TTA is satisfied that the following requirements are 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 under the [Road Transport \(Vehicle Registration\) Act 1997](#) 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) the stand-by tow truck must display in the approved manner an approved sign 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 (2) 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 TTA.

Maximum penalty: 20 penalty units.

- (6) Any such approval may only be given if an application is made to the TTA 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**

### **69 Exemption relating to interstate tow truck operators and drivers**

- (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) Such an exemption does not apply to or in respect of any towing work that starts in this State.

### **70 Penalty notices**

For the purposes of section 89 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as an offence for which a penalty notice may be issued, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

### **71 (Repealed)**

### **72 Repeal**

The *Tow Truck Industry (Transitional) Regulation 1999* is repealed.

### **73 Transitional provision—fees**

A fee prescribed by clause 6, 11, 14 or 20 of this Regulation (as in force immediately before 1 June 2002) is taken to be a fee determined by the TTA until the TTA determines a different fee in accordance with the relevant section of the Act.



## Schedule 1 Penalty notice offences

(Clauses 70 and 71)

Column 1	Column 2
Offence	Penalty
<b>Offences under the Act</b>	
Section 15	\$2,200
Section 23 (1) (a)	\$1,100
Section 23 (1) (b)	\$1,100
Section 23 (1) (c)	\$1,100
Section 23 (2)	\$1,100
Section 36	\$1,100
Section 37 (1)	\$550
Section 49 (1)	\$1,100
Section 50 (1)	\$1,100
Section 51 (2)	\$1,100
Section 51 (3)	\$1,100
Section 51 (4)	\$1,100
Section 53	\$1,100
Section 56 (1)	\$2,200
Section 57 (2)	\$550
Section 58 (1)	\$1,100
Section 58 (2)	\$1,100
Section 59	\$1,100
Section 60 (2) (a)	\$1,100
Section 60 (2) (b)	\$1,100
Section 60 (3) (a)	\$1,100
Section 60 (3) (b)	\$1,100
Section 60 (3) (c)	\$1,100
Section 60 (4)	\$1,100
Section 60 (5)	\$1,100

Section 60 (6)	\$1,100
Section 61 (1)	\$550
Section 61 (2)	\$2,200
Section 61 (3)	\$2,200
Section 62	\$1,100
Section 63 (1)	\$1,100
Section 64 (1)	\$2,200
Section 64 (2)	\$2,200
Section 65	\$250
Section 66 (1)	\$1,100
Section 67	\$1,100
Section 68 (a)	\$1,100
Section 68 (b)	\$1,100
Section 69	\$550
Section 70 (1)	\$550
Section 70 (2)	\$550
Section 70 (3)	\$550
Section 71 (1)	\$1,100
Section 71 (2)	\$1,100
Section 72 (1)	\$1,650
Section 72 (2)	\$550
Section 73 (1)	\$550
Section 73 (2)	\$550
Section 74	\$1,100
Section 75	\$1,100
Section 85 (1)	\$1,650
Section 85 (2)	\$1,650
Section 85 (3) (a)	\$1,650
Section 85 (3) (b)	\$1,650
Section 85 (3) (c)	\$1,650
Section 99 (1)	\$1,100

**Offences under this Regulation**

Clause 28 (3)	\$550
Clause 33	\$440
Clause 36	\$1,100
Clause 39	\$1,100
Clause 42	\$440
Clause 43 (1)	\$1,100
Clause 43 (2)	\$1,100
Clause 43 (3)	\$1,100
Clause 43 (4)	\$1,100
Clause 44 (2)	\$550
Clause 44 (3)	\$335
Clause 44 (4)	\$335
Clause 44 (5)	\$335
Clause 45 (1)	\$110
Clause 45 (2)	\$440
Clause 45 (3)	\$440
Clause 57 (a)	\$1,100
Clause 57 (b)	\$1,100
Clause 58 (a)	\$1,100
Clause 58 (b)	\$1,100
Clause 58 (c)	\$1,100
Clause 58 (d)	\$1,100
Clause 59 (a)	\$110
Clause 59 (b)	\$440
Clause 61 (a)	\$355
Clause 61 (b)	\$355
Clause 62 (2)	\$440
Clause 62 (6)	\$440
Clause 62 (7) (a)	\$220
Clause 62 (7) (b)	\$220

Clause 63	\$110
Clause 64 (1) (a)	\$550
Clause 64 (1) (b)	\$1,100
Clause 64 (1) (c)	\$1,100
Clause 66 (9)	\$110
Clause 66 (10)	\$440
Clause 68 (4) (b)	\$440
Clause 68 (5)	\$440