

Tow Truck Industry Amendment Act 2008 No 83

[2008-83]



New South Wales

Status Information

Currency of version

Repealed version for 17 July 2009 to 18 December 2009 (accessed 29 November 2024 at 4:45)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by sec 4 (1) of this Act with effect from 19.12.2009.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Tow Truck Industry Amendment Act 2008 No 83



New South Wales

An Act to amend the *Tow Truck Industry Act 1998* to make further provision in relation to tow truck operators licences, drivers certificates and the regulation of the tow truck industry.

1 Name of Act

This Act is the *Tow Truck Industry Amendment Act 2008*.

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 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.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 Amendments

(Section 3)

[1]-[6] (Repealed)

[7] Section 20 (2) (h)-(i2)

Omit section 20 (2) (h) and (i). Insert instead:

- (h) the licensee must not charge a fee for the towing, salvage or storage of a motor vehicle, or for any service that is related to or ancillary to the towing, salvage or storage of a motor vehicle, if the charging of the fee would be in contravention of the regulations, and must not demand, receive or accept such a fee,
- (i) the licensee must not charge a fee for work that was not actually done by the

licensee or by an employee or subcontractor of the licensee,

- (i1) in the case of a licence granted for a term of 3 years—the licensee must, within 28 days of receiving a notice from the RTA relating to such of the licensee’s licence particulars, insurance particulars and particulars of close associates as are specified in the notice:
 - (i) confirm that the particulars specified in the notice are still accurate, or
 - (ii) provide details of any change in any of those particulars, and provide any documents relating to those particulars, that may be specified in the notice,
- (i2) the licensee must notify the RTA, as soon as practicable, of any change in the licensee’s licence particulars, insurance particulars and particulars of close associates that are prescribed by the regulations, and must provide the RTA with any documents relating to those particulars that are prescribed by the regulations,

[8] Sections 22 and 22A

Omit section 22. Insert instead:

22 Term of licence

- (1) A licence may be granted:
 - (a) if subsection (2) applies, for a period of 3 years, or
 - (b) for a period of one year, or
 - (c) for such shorter period as the RTA determines.
- (2) A licence may be granted for a period of 3 years if:
 - (a) the applicant has requested that the licence be granted for a period of 3 years, and
 - (b) the applicant has held a licence for a continuous period of at least 3 years immediately before the date on which the subsequent licence will come into force (that is, during that period of 3 years, the applicant’s licence was not suspended or revoked and did not lapse), and
 - (c) neither the applicant nor any of the applicant’s close associates is, at the time the application is made, under investigation by the RTA in relation to any breach of a condition of a licence or any other contravention of this Act or the regulations, and
 - (d) neither the applicant nor any of the applicant’s close associates has, in the 5 years immediately before the date of the application:

- (i) been subject to any prescribed disciplinary action under this Act, or
 - (ii) engaged in any prescribed conduct, and
- (e) the RTA is satisfied that a 3-year licence should be granted.
- (3) A licence continues in force for the period for which it is granted, as specified in the licence, unless it is sooner revoked or suspended or otherwise ceases to be in force.
- (4) In this section:

prescribed conduct means any conduct that:

- (a) if the applicant or close associate applied for a licence or drivers certificate immediately after engaging in the conduct, would, in the opinion of the RTA, be sufficient to justify the application being refused, or
- (b) if the applicant or close associate held a licence or drivers certificate at the time of engaging in the conduct, would, in the opinion of the RTA, be sufficient to justify:
 - (i) the suspension of a licence or drivers certificate held by the applicant or close associate, or
 - (ii) the permanent revocation of a licence or drivers certificate held by the applicant or close associate, or
 - (iii) the disqualification of the applicant or close associate from holding a licence or drivers certificate.

prescribed disciplinary action means:

- (a) the suspension of a licence or drivers certificate held by the applicant or close associate, or
- (b) the permanent revocation of a licence or drivers certificate held by the applicant or close associate, or
- (c) the disqualification of the applicant or close associate from holding a licence or drivers certificate.

22A Renewal of licence

A licence may be renewed from time to time by making an application for a subsequent licence in accordance with this Act.

[9] (Repealed)

[10] Section 29 Conditions of drivers certificate

Omit section 29 (2) (b). Insert instead:

- (b) the certified driver must not charge a fee for the towing or salvage of a motor vehicle, or for any service that is related to or ancillary to the towing or salvage of a motor vehicle, if the charging of the fee would be in contravention of the regulations, and must not demand, receive or accept such a fee,
- (b1) the certified driver must not charge a fee for work that was not actually done by the certified driver, and must not demand, receive or accept such a fee,
- (b2) in the case of a drivers certificate granted for a term of 3 years—the certified driver must, within 28 days of receiving a notice from the RTA relating to such of the certified driver’s drivers certificate particulars and insurance particulars as are specified in the notice:
 - (i) confirm that the particulars specified in the notice are still accurate, or
 - (ii) provide details of any change in any of those particulars, and provide any documents relating to those particulars, that may be specified in the notice,
- (b3) the certified driver must notify the RTA, as soon as practicable, of any change in the certified driver’s drivers certificate particulars that are prescribed by the regulations, and must provide the RTA with any documents relating to those particulars that are prescribed by the regulations,

[11] Sections 31 and 31A

Omit section 31. Insert instead:

31 Term of drivers certificate

- (1) A drivers certificate may be granted:
 - (a) if subsection (2) applies, for a period of 3 years, or
 - (b) for a period of one year, or
 - (c) for such shorter period as the RTA determines.
- (2) A drivers certificate may be granted for a period of 3 years if:
 - (a) the applicant has requested that the drivers certificate be granted for a period of 3 years, and

- (b) the applicant has held a drivers certificate for a continuous period of at least 5 years immediately before the date on which the subsequent drivers certificate will come into force (that is, during that period of 5 years, the applicant's drivers certificate was not suspended or revoked and did not lapse), and
 - (c) the applicant is not, at the time the application is made, under investigation by the RTA in relation to any breach of a condition of a drivers certificate or any other contravention of this Act or the regulations, and
 - (d) the applicant has not, in the 5 years immediately before the date of the application:
 - (i) been subject to any prescribed disciplinary action under this Act, or
 - (ii) engaged in any prescribed conduct, and
 - (e) the RTA is satisfied that a 3-year drivers certificate should be granted.
- (3) A drivers certificate continues in force for the period for which it is granted, as specified in the drivers certificate, unless it is sooner revoked or suspended or otherwise ceases to be in force.

(4) In this section:

prescribed conduct means any conduct that:

- (a) if the applicant applied for a licence or drivers certificate immediately after engaging in the conduct, would, in the opinion of the RTA, be sufficient to justify the application being refused, or
- (b) if the applicant held a licence or drivers certificate at the time of engaging in the conduct, would, in the opinion of the RTA, be sufficient to justify:
 - (i) the suspension of a licence or drivers certificate held by the applicant, or
 - (ii) the permanent revocation of a licence or drivers certificate held by the applicant, or
 - (iii) the disqualification of the applicant from holding a licence or drivers certificate.

prescribed disciplinary action means:

- (a) the suspension of a licence or drivers certificate held by the applicant, or
- (b) the permanent revocation of a licence or drivers certificate held by the applicant, or
- (c) the disqualification of the applicant from holding a licence or drivers

certificate.

31A Renewal of drivers certificate

A drivers certificate may be renewed from time to time by making an application for a subsequent drivers certificate in accordance with this Act.

[12], [13] (Repealed)

[14] Section 54

Omit the section. Insert instead:

54 Charges and fees for towing, salvage, storage and related services

- (1) The regulations may make provision for or with respect to regulating the fees that can be charged by a licensee or certified driver for the towing, salvage or storage of a motor vehicle or for any service that is related to or ancillary to the towing, salvage or storage of a motor vehicle.
- (2) Without limiting subsection (1), the regulations under this section can include provision that:
 - (a) fixes maximum fees or otherwise limits the fees that may be charged, or
 - (b) prohibits the charging of a fee for any specified service that is related or ancillary to the towing, salvage or storage of a motor vehicle, or
 - (c) specifies procedures to be followed by licensees and certified drivers in connection with the charging of fees.
- (3) A licensee or certified driver is not entitled to recover or retain any fee charged in contravention of regulations under this section.

[15] Section 61 Prohibition of “spotter’s fees”, “drop fees” and towing inducements

Omit “do not exceed any charges determined by the RTA” from the definition of **valuable thing** in section 61 (4).

Insert instead “are permitted to be charged under this Act and do not exceed any maximum charges fixed by the regulations”.

[16]-[20] (Repealed)