

Queensland



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 39 of 1973

**An Act to provide for the control and regulation of tow-trucks
and their operation**

[ASSENTED TO 26TH APRIL, 1973]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY PROVISIONS

1. **Short title.** This Act may be cited as the *Tow-truck Act 1973*.
2. **Commencement.** This Act shall come into operation on a date appointed by Proclamation.
3. **Arrangement.** This Act is divided into Parts as follows:—
 - PART I—PRELIMINARY PROVISIONS, ss. 1-4;
 - PART II—LICENCES, ss. 5-12;
 - PART III—CERTIFICATES, ss. 13-19;
 - PART IV—REGULATION OF LICENCES, CERTIFICATES AND PERMITS, ss. 20-21;
 - PART V—OFFENCES, ss. 22-27;
 - PART VI—APPEALS, ss. 28-34;
 - PART VII—GENERAL PROVISIONS, ss. 35-43.

4. Interpretation. (1) In this Act unless a contrary intention appears—

- “ articulated motor vehicle ” means a motor vehicle having at its rear a portion on wheels that is pivoted on and partly superimposed on the forward part of the vehicle;
- “ assistant’s certificate ” means an assistant’s certificate issued under this Act and in force at any material time;
- “ authorized officer ” means a member of the Police Force of the State, an inspector under the *Inspection of Machinery Act 1951–1971* or a person acting under the authority of the Commissioner;
- “ Commissioner ” means the Commissioner for Transport appointed under *The State Transport Acts 1960 to 1965*: the term includes a person for the time being acting as the Commissioner;
- “ damaged ” means damaged in an incident;
- “ driver’s certificate ” means a driver’s certificate issued under this Act and in force at any material time;
- “ licence ” means a licence with respect to a tow-truck issued under this Act and in force at any material time;
- “ motor vehicle ” means a motor car, motor cycle, motor omnibus, motor truck, motor utility truck, trolley vehicle, tractor or traction engine, a trailer attached to or drawn by a motor vehicle, and any other vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power: the term includes an articulated motor vehicle but does not include a vehicle used on a railway or tramway;
- “ operate ” with respect to a tow-truck means to tow or offer to tow a motor vehicle by means of a tow-truck, for hire or for any consideration or in the course of any trade or business;
- “ permit ” means a permit issued under this Act and in force at any material time;
- “ road ” has the meaning assigned to that term by the *Traffic Act 1949–1971*;
- “ tow ” with respect to a motor vehicle includes carry, lift and tow, lift and carry and lift for the purpose of towing;
- “ towing authority ” means an authority given, on the form prescribed for the purpose, for the towing of a motor vehicle;
- “ tow truck ” means a motor vehicle—
 - (a) equipped with a lifting or loading device capable of being used for the towing of a motor vehicle;
 - (b) being used at the material time for the towing of a trailer on which a damaged motor vehicle is being carried.

Where in the definition “ motor vehicle ” there is used an expression that is not itself defined in this section and to which a meaning is assigned by the *Traffic Act 1949–1971*, that expression has the meaning assigned to it by that Act; but if by a regulation made under this Act a meaning is assigned to such an expression either generally or for a particular purpose the expression shall, for the purposes of the regulations, have the meaning so assigned by the regulation.

(2) For the purposes of this Act, in cases where a firm or partnership is the holder of a licence or permit, every member of that firm or partnership shall be deemed to be a holder of that licence or permit.

PART II—LICENCES

5. Requirement as to licence for tow-truck. Subject to this Act, after the expiration of three months from the date of commencement of this Act a person shall not himself, or by his servant or agent, operate a tow-truck unless it is licensed and he is the holder of the licence.

6. Application for licence. (1) An application for a licence shall be made to the Commissioner in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(2) The Commissioner may upon receipt of the application notify the Commissioner of Police of the State who shall cause enquiries to be made and a report to be furnished to the Commissioner upon—

- (a) where the applicant is a natural person, his fame and character;
- (b) where the applicant is a body corporate, the fame and character of every director, manager and public officer thereof.

(3) The Commissioner shall consider the report of the Commissioner of Police and such other matters as he considers relevant and if he is satisfied that—

- (a) the applicant is in all respects a fit and proper person to hold a licence; and
 - (b) the motor vehicle or motor vehicles in respect of which the application is made and its or their equipment are suitable,
- he may grant and issue to the applicant a licence.

7. Form and authority of licence. (1) A licence—

- (a) shall be in the prescribed form;
- (b) shall authorize the operation of the tow-truck or tow-trucks in respect of which it is issued, subject always to this Act;
- (c) shall state the place from which the business of operating the tow-truck or tow-trucks in respect of which it is issued may be conducted;
- (d) may be renewed from time to time;
- (e) shall not be transferable.

(2) A licence shall not be issued or renewed unless the tow-truck or tow-trucks in respect of which the application is made is or are registered under *The Main Roads Acts 1920 to 1968*.

8. Duration of licence. Unless sooner cancelled, suspended or surrendered, a licence shall subsist for a period of twelve months from and including the date of its grant or, as the case may be, its last renewal, and for the purpose of calculating the period of its duration a licence shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

9. Renewal of licence. Upon application for a renewal of a licence made in accordance with the regulations and two weeks prior to the expiration of the period of duration of the licence and upon payment

of the prescribed fee, the Commissioner shall renew the licence if he is satisfied that the provisions of this Act applicable thereto have been complied with and the holder thereof continues to be a fit and proper person to hold the licence.

10. Imposition of conditions of licence. The Commissioner may upon the grant or renewal of a licence impose such conditions as he thinks fit by inserting in or affixing to the prescribed form of licence particulars of those conditions and may at any time and from time to time vary the conditions to which a licence is subject by written notice to the holder.

11. Permits to tow motor vehicles. (1) The Commissioner may upon application in the prescribed form, payment of the prescribed fee and upon his being satisfied as to the identity of the applicant for the permit issue a permit that authorizes the holder thereof to tow motor vehicles by means of the tow-truck specified therein pending the determination of an application for a licence.

(2) A permit issued pursuant to subsection (1)—

- (a) shall be in the prescribed form;
- (b) shall, subject to this Act, be in force for such period not exceeding six months as the Commissioner determines;
- (c) may be revoked by the Commissioner at any time;
- (d) may be issued subject to all or any of the conditions to which a licence may be subject and to such other conditions as are specified in the permit.

12. Conditions of licence. (1) Every licence shall be subject to the performance and observance by the holder thereof of the provisions of this Act with respect to the licence or to the tow-truck or tow-trucks to which the licence relates and of the conditions particularized in the licence or affixed thereto.

(2) Without limiting the generality of the provisions of subsection (1), it shall be a condition of every licence—

- (a) that any tow-truck to which the licence relates and its equipment comply with the provisions of any Act relating to the design, construction, and serviceability of the tow-truck or, as the case may be, its equipment;
- (b) that the provisions of any Act relating to limits of weight or speed that are applicable to any tow-truck to which the licence relates are complied with;
- (c) that the provisions of any Act relating to the limitation of hours of driving are observed;
- (d) that the holder of the licence shall not operate any tow-truck to which the licence relates unless it has been inspected as required by the *Inspection of Machinery Act 1951-1971* and a current certificate of inspection issued under that Act exists in respect of it;
- (e) that a person shall not on a road tow a damaged motor vehicle (not being a motor vehicle that is owned by the holder of the licence) by means of any tow-truck to which the licence relates unless he has obtained the consent of the owner thereof,

- the owner's agent or an authorized officer to remove that motor vehicle and a duly signed towing authority relating to that motor vehicle dealt with as prescribed;
- (f) that a person shall not obtain or attempt to obtain a signature on a form of towing authority unless there has first been entered on that form the full address of the place to which the motor vehicle the subject of the towing authority will be towed and, where any business is carried on in that place, the name of the business;
 - (g) that all reasonable precautions shall be taken by the holder of the licence and the driver of any tow-truck to which the licence relates and any person employed thereon to prevent loss from, or damage to, a damaged motor vehicle while being towed by the tow-truck and that those precautions shall be taken by the holder of the licence while the motor vehicle is otherwise under his control;
 - (h) that the holder of a licence shall cause to be made an inventory of movable property (including any radio or sound production device) found to be in the damaged vehicle at the time of its arrival at the place referred to in paragraph (f) to which it has been towed and shall keep at the premises from which he conducts his business an inventory so made;
 - (i) that a person shall not tow a damaged motor vehicle from the scene of an incident by means of any tow-truck to which the licence relates to a place other than the place referred to in paragraph (f);
 - (j) that where a motor vehicle has been towed to the place referred to in paragraph (f), a person shall not, except to return the motor vehicle to the registered owner thereof or his agent authorized in writing, remove the motor vehicle to another place without the written authority of that owner or agent given after the motor vehicle has been towed to the place from which it is to be removed;
 - (k) that where a damaged motor vehicle has been towed to a place where it is under the control of the holder of the licence, a person shall not refuse to deliver the motor vehicle to the registered owner thereof or his agent duly authorized in writing on request by the owner or his agent after payment of reasonable charges for the towing and storing of the motor vehicle, and where repair work has been authorized by the owner or his agent, for that repair work, has been made or tendered;
 - (l) that a person other than the holder of a driver's certificate or an assistant's certificate shall not accompany the driver of any tow-truck to which the licence relates while the tow-truck is proceeding to the scene of an incident or towing a damaged motor vehicle from the scene of an incident unless in either case he was the owner or his agent or the driver of or a passenger in that motor vehicle;
 - (m) that a person shall not obtain or attempt to obtain at the scene of an incident authority for the towing of a damaged motor vehicle by means of any tow-truck to which the licence relates unless he is the driver of the tow-truck having the authority express or implied of the holder of the licence, his servants or agents;

- (n) that the holder of the licence shall not, unless he is the holder of a driver's certificate obtain or attempt to obtain any authority referred to in paragraph (e);
- (o) that the driver of any tow-truck to which the licence relates shall not (except to the extent necessary to connect the towing equipment of the tow-truck to a damaged motor vehicle in respect of which he has obtained a towing authority) permit the tow-truck to stand upon a road so as to cause an obstruction or to stand at the scene of an incident for a period longer than that which would reasonably be required to obtain a towing authority in respect of a damaged motor vehicle for which no towing authority has been given;
- (p) that any tow-truck to which the licence relates shall not be used to tow a damaged motor vehicle while any person is travelling as a passenger in the damaged motor vehicle;
- (q) that the holder of the licence and any person employed by him on or about any tow-truck to which the licence relates shall comply with the provisions of the *Wireless Telegraphy Act 1905-1967* of the Commonwealth as amended from time to time, and shall not permit or suffer any other person to contravene the provisions of that Act;
- (r) that the holder of the licence shall not charge a sum other than a reasonable sum for the towing, salvage or storage of a motor vehicle.

PART III—CERTIFICATES

13. Requirement as to certificates. Subject to this Act, after the expiration of three months from the date of commencement of this Act a person—

- (a) shall not operate a tow-truck unless he is the holder of a driver's certificate issued to him or a permit under section 19 that authorizes him to operate a tow-truck;
- (b) shall not be employed on or about a tow-truck at or near the scene of an incident unless he is the holder of a driver's certificate or an assistant's certificate issued to him or a permit under section 19;
- (c) shall not travel in a tow truck while it is proceeding to the scene of an incident unless he is the holder of a driver's certificate or an assistant's certificate issued to him or a permit under section 19 or was the owner or his agent or the driver of or a passenger in the damaged motor vehicle.

14. Application for driver's or assistant's certificate. (1) An application for a driver's certificate or for an assistant's certificate shall be made to the Commissioner in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(2) The Commissioner may on receipt of the application notify the Commissioner of Police of the State who shall cause enquiries to be made and a report to be furnished to the Commissioner upon the fame and character of the applicant.

(3) The Commissioner shall consider the report of the Commissioner of Police and such other matters as he considers relevant and if he is satisfied that the applicant is in all respects a fit and proper person to hold the certificate applied for, he may grant and issue to the applicant a driver's certificate or assistant's certificate, as the case requires.

15. Form and authority of driver's or assistant's certificate. A driver's certificate or an assistant's certificate—

- (a) shall be in the prescribed form;
- (b) shall be subject to the performance and observance by the holder thereof of the conditions prescribed in relation thereto or particularized therein or affixed thereto or notified in writing to the holder thereof;
- (c) shall, if a driver's certificate, authorize the holder of the certificate to operate a tow-truck or, if an assistant's certificate, to be employed on or about a tow-truck;
- (d) may be renewed from time to time.

16. Imposition of conditions on certificate. The Commissioner may upon the grant or renewal of a certificate under this Part impose such conditions as he thinks fit, and if he does so shall particularize in or affix to the prescribed form of certificate those conditions and may at any time and from time to time, by written notice to the holder of the certificate, vary the conditions to which a certificate is for the time being subject.

17. Duration and renewal of driver's or assistant's certificate. (1) Unless sooner cancelled, suspended or surrendered a driver's certificate or an assistant's certificate shall subsist for a period of twelve months from and including the date of its grant or, as the case may be, its last renewal and for the purpose of calculating the period of its duration shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

(2) Upon application for renewal made as prescribed and at least two weeks prior to the expiration of the period of duration of a driver's certificate or an assistant's certificate and upon payment of the prescribed fee, the Commissioner shall renew the certificate if he is satisfied that the provisions of this Act applicable thereto have been complied with and the holder thereof continues to be a fit and proper person to hold the certificate.

18. Driver's certificate dependent upon driver's licence. (1) During any period for which the holder of a driver's certificate is not authorized under the *Traffic Act* 1949-1971 to drive a tow-truck, the driver's certificate shall be of no force and effect, and shall be deemed not to exist.

(2) The holder of a driver's certificate that so becomes of no force and effect shall forthwith produce that certificate to the Commissioner who may then endorse it accordingly.

(3) If by reason of this section, a driver's certificate is of no force and effect whatever it shall, upon production to the Commissioner, be held by him until it is again of some force and effect.

19. Permit for applicant for driver's or assistant's certificate. (1) The Commissioner may, upon application in the prescribed form and payment of the prescribed fee and upon his being satisfied as to the identity of the applicant for the permit, issue to that applicant a permit that authorizes the holder thereof to operate or as the case requires be employed on or about a tow-truck pending the determination of an application for a driver's certificate or assistant's certificate.

- (2) A permit issued under subsection (1)—
- (a) shall be in the prescribed form;
 - (b) shall, subject to this Act, be in force for such period not exceeding six months as the Commissioner determines;
 - (c) may be revoked by the Commissioner at any time;
 - (d) may be issued subject to all or any of the conditions to which a driver's certificate or an assistant's certificate may be subject and to such other conditions as are specified in the permit.

PART IV—REGULATION OF LICENCES, CERTIFICATES AND PERMITS

20. Records. The Commissioner shall keep records of licences, drivers' certificates, assistants' certificates and permits applied for under this Act and matters pertaining thereto including, but without limiting the generality of this provision, particulars in respect of the grant, refusal, suspension, cancellation and revocation of such licences, certificates and permits.

21. Cancellation or suspension of licences or certificates. (1) The Commissioner may cancel or suspend a licence, driver's certificate or an assistant's certificate if—

- (a) the licence or certificate was issued in error or granted in consequence of any false or fraudulent document, statement or representation;
- (b) the holder of the licence or certificate is convicted of an offence against this Act;
- (c) the holder of the licence or certificate fails to comply with or observe any condition thereof;
- (d) the holder of the licence or certificate ceases to exercise or to be employed under the authority thereby conferred on him; or
- (e) the Commissioner is of opinion that by reason of the manner in which the holder of the licence or certificate conducts himself in the exercise of or his employment under the authority thereby conferred on him, or by reason of any other fact or circumstance the holder is not a fit and proper person to hold the licence or, as the case may be, the certificate.

(2) Where a licence or certificate is cancelled or suspended, the person to whom the licence or certificate was issued shall deliver up the same to the Commissioner within the time specified in the notice of the Commissioner's decision, given pursuant to section 28.

PART V—OFFENCES

22. Authority to repair. A person—

- (a) shall not at the scene of an incident obtain or attempt to obtain authority from another person for the repair of a damaged motor vehicle; or
- (b) shall not, where a damaged motor vehicle is towed by a tow-truck, obtain or attempt to obtain from another person authority for the repair of the motor vehicle before it is delivered to the address entered on the towing authority relating to the motor vehicle.

23. Consideration for obtaining certain information or work. (1) A person—

- (a) shall not for the purpose of obtaining a towing authority or enabling any other person to obtain a towing authority, give or receive or agree to give or receive any valuable thing in consideration of the furnishing of information or advice as to the occurrence of an incident or the presence of a damaged motor vehicle on a road;
- (b) shall not give or agree or offer to give any valuable thing in consideration of the obtaining for himself or any other person of the work of repairing a damaged motor vehicle; or
- (c) shall not receive or agree or offer to receive any valuable thing in consideration of the obtaining from any other person of the work of repairing a damaged motor vehicle.

(2) In this section “valuable thing” includes any money, loan, office, place, employment, benefit or advantage and any commission or rebate payment in excess of actual value of goods or service, deduction or percentage, bonus or discount or any forbearance to demand any money or money’s worth or valuable thing, but does not include any reasonable charge in respect of the towing, salvage or storage of a damaged motor vehicle.

24. False statements and representations, and coercion. A person shall not—

- (a) knowingly make any false statement in any application under this Act;
- (b) falsely advertise himself or hold himself out as being the holder of a licence, certificate or permit under this Act, or suffer or allow any such advertisement or holding out;
- (c) falsely represent to any person that a vehicle is a tow-truck to which a licence under this Act relates;
- (d) obtain or attempt to obtain by force or undue influence a consent to remove a damaged motor vehicle or a signature on a towing authority.

25. Offences with respect to authorized officers. (1) A person shall not—

- (a) assault, resist or obstruct an authorized officer in the exercise of his powers or in the discharge of his duties under this Act, or attempt so to do;

- (b) fail to facilitate by all reasonable means the entry into or on premises from which a tow-truck operator conducts his business, or vehicle by an authorized officer;
- (c) fail to answer any question put to him in pursuance of this Act by an authorized officer or give to any such question an answer that is in any respect false or misleading;
- (d) fail to comply with the lawful requisition or any part of the lawful requisition of an authorized officer;
- (e) when required by or under this Act to furnish any assistance or to furnish any information to an authorized officer, fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information that is in any respect false or misleading;
- (f) fail, without reasonable excuse, the proof whereof shall lie upon him, to produce any licence, certificate or permit, or book, notice, record, document or writing that he is required under this Act by an authorized officer to produce or fail to allow an authorized officer to take a copy of or extract from any such licence, certificate or permit, book, notice, record, document or writing;
- (g) directly or indirectly prevent any person from appearing before or being questioned by an authorized officer, or attempt so to do; or
- (h) use any threat or any abusive or insulting language to an authorized officer or to any other person with respect to any inspection, examination or interrogation.

26. Excess of authority. A person shall not operate a tow-truck otherwise than in conformity with the authority conferred by a licence relating to that tow-truck.

27. Execution against motor vehicle. (1) Any warrant of execution for the amount of any penalty for an offence against section 5 or 26 may be executed by seizure and sale of the goods and chattels of the offender and, where the motor vehicle in respect of which the offence was committed is not the sole and absolute property of the offender, by seizure and sale of that motor vehicle as if it were the sole and absolute property of the offender.

Where the motor vehicle in respect of which the offence was committed comprised a trailer attached to a motor vehicle the warrant may be executed by seizure and sale of the trailer or the motor vehicle to which it was attached, or both of them.

(2) If it appears to the person to whom the warrant is directed that the motor vehicle is not, at the time of its seizure, the sole and absolute property of the offender, such person shall pay the whole of the proceeds of the sale of the motor vehicle to the clerk of the court to whom the warrant orders him to pay the amount to be levied thereunder.

So much of such proceeds as exceeds the amount ordered to be levied and the costs and charges of the execution shall be deemed to have come into the custody of the clerk of the court in connexion with the proceedings in respect of the offence.

(3) Any justice shall, upon the application of the Commissioner or a person acting under the general or particular authority of the Commissioner, issue a warrant of execution for any amount that has not been paid of any penalty for an offence against section 5 or 26.

Notwithstanding the provisions of *The Justices Acts 1886 to 1968* a justice—

- (a) shall not postpone the issue of the warrant of execution;
- (b) shall issue the warrant of execution notwithstanding that the decision adjudging the penalty made no provision for the levy thereof by distress or execution, or directed that in default of payment thereof forthwith or within a time allowed the offender should be imprisoned.

(4) This section does not authorize the execution of a warrant for recovery of any amount of penalty for an offence against section 5 or 26—

- (a) before the expiration of the time, if any, for payment of the penalty allowed by the justices adjudging the penalty as part of their decision; or
- (b) after the offender has been imprisoned for default in paying the penalty.

(5) In this section the expression “penalty” includes any costs or fees which the justices adjudging the penalty ordered, as part of their decision, to be paid.

PART VI—APPEALS

28. Appeal from decision of Commissioner. (1) Where the Commissioner—

- (a) refuses an application for or for any renewal of a licence, driver's certificate or assistant's certificate;
- (b) imposes conditions upon the grant or renewal of a licence, driver's certificate or assistant's certificate;
- (c) varies conditions to which a licence, driver's certificate or assistant's certificate is subject;
- (d) cancels or suspends a licence, driver's certificate or assistant's certificate,

he shall notify in writing the applicant or holder of the licence or certificate, as the case may be, of his decision and the grounds therefor.

(2) An applicant or holder of a licence or certificate aggrieved by the Commissioner's decision may in the manner and within the time prescribed appeal to the appeal tribunal constituted as prescribed.

29. Appeal tribunal. (1) The appeal tribunal shall convene as often as is necessary to hear and determine an appeal duly made to it and for that purpose shall consist of—

- (a) a stipendiary magistrate who shall be chairman of the tribunal;
- (b) an officer of the Department of Transport nominated by the Commissioner;

(c) a holder of a licence nominated by the Minister as prescribed, and shall be deemed to be a commission of inquiry within the meaning of *The Commissions of Inquiry Acts 1950 to 1954* the provisions whereof shall apply accordingly.

(2) An appointment of a member of the appeal tribunal—

(a) shall be made by the Governor in Council by notification published in the Gazette;

(b) subject to the next following paragraph (c), shall be effective for a period of twelve months commencing on the date of publication unless the appointment sooner becomes vacant as prescribed;

(c) where it is made to fill a vacancy in the appointment of a member, shall be effective for the balance of the term of the appointment in which the vacancy occurred.

(3) The appointment of a member of the appeal tribunal shall become vacant if the appointee—

(a) dies;

(b) resigns the appointment by notice in writing given to the Minister;

(c) ceases to be qualified as prescribed for appointment as a member;

(d) is removed from the appointment by the Governor in Council as prescribed.

The Governor in Council may at any time by notice in writing given to the member in question remove a member of the appeal tribunal from the appointment if, in his opinion, the member is not a fit and proper person to hold the appointment.

(4) The nomination by the Minister of a holder of a licence for appointment as a member of the appeal tribunal shall be made from a panel of names of three of those holders, at the least, furnished to him by an association or group of holders that in his opinion is representative of the holders of licences in the State.

If at the time an appointment of a holder of a licence is to be made, there is no panel or if the holders on a panel willing to accept nomination are less than three in number, the Minister may in his discretion nominate any holder of a licence.

30. Secretary to appeal tribunal. The Commissioner shall assign an officer of the Department of Transport (other than the officer thereof who is or is to be a member of the appeal tribunal) to act as secretary to the appeal tribunal.

31. Procedure on appeal. (1) An appeal shall be instituted within fourteen days after the date on which the appellant receives notice of the Commissioner's decision whereby he is aggrieved and no later, by lodging with the secretary a notice of appeal in writing in the prescribed form (if any) and paying the prescribed fee, if any.

The grounds of the appeal shall be clearly and briefly set forth in the notice of appeal.

The appellants may at any time withdraw his appeal by notice in writing given to the secretary.

(2) When an appeal has been duly instituted the secretary shall arrange with the chairman of the appeal tribunal a date, time and place for the hearing of the appeal and shall give at least seven days' notice thereof to the appellants and to the Commissioner.

So far as is practicable an appeal shall be heard and determined within one month after the date on which it is instituted.

(3) The decision of the appeal tribunal, where the members are not unanimous, shall be that of the majority of the members.

32. Venue and nature of appeal. (1) The appeal tribunal shall sit at such times and such places as the chairman fixes and shall determine an appeal on the evidence that was before the Commissioner in the matter in question and on such further evidence as, in the opinion of the chairman, is relevant to the matter of inquiry.

(2) The appeal tribunal may inform itself on any matter in such manner as it deems fit and, subject to this Act, shall not be bound by rules of or practice as to evidence.

(3) Subject to this Act, an appeal shall be conducted in accordance with directions of the appeal tribunal which directions shall be consistent with natural justice.

(4) The appellants and the Commissioner may appear before the appeal tribunal in person or by counsel or solicitor or by an agent acceptable to the tribunal.

33. Determination of appeal. By way of determining an appeal, the appeal tribunal may confirm or set aside the Commissioner's decision in issue and may make any determination and order that the Commissioner could have properly made under this Act with respect to the matter in question, and may make such order as to costs as it thinks just.

34. Effect of appeal and of determination thereof. (1) Save where the Commissioner's decision the subject of an appeal consists of a refusal of an application for or a renewal of a licence or certificate, an appeal duly instituted shall avoid the decision the subject thereof until the appeal is determined by the appeal tribunal or withdrawn by the appellants, whichever event sooner occurs.

(2) The decision of the appeal tribunal shall be final and conclusive and shall be given effect to.

Where a decision of the Commissioner is thereby set aside that decision shall be of no further force or effect but where it is confirmed that decision shall again be of full force and effect or, as the case may be, continue to be so, according to its tenor.

PART VII—GENERAL PROVISIONS

35. Production of licence, certificate or permit. (1) The holder of a licence, driver's certificate, assistant's certificate or permit shall on demand by an authorized officer produce that licence, certificate or permit for inspection.

(2) The driver of a tow-truck shall, whether or not he is requested so to do, before an offer is made to tow a damaged motor vehicle by means of the tow-truck or at the time that offer is made, produce his driver's certificate or permit to operate the tow-truck for inspection by the person to whom the offer is to be, or is, made.

36. Power to delegate. (1) The Commissioner may either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to any person or holder of an office all or any of his powers, authorities or functions (other than this power of delegation) under this Act.

(2) A power, authority or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or authority or the performance of a function by the Commissioner or the making by him of a further delegation of that power, authority or function.

37. Evidentiary provisions. (1) A certificate purporting to be signed by the person having custody of the records kept pursuant to section 20 certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in section 20 did or did not appear in or from those records shall upon its production in any proceeding be admissible as evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained in the certificate.

(2) A document purporting to be a report furnished to the Commissioner for the purposes of this Act in relation to any applicant, holder of a licence, certificate or permit and relevant to the matter of inquiry shall upon its production in an appeal against the Commissioner's decision, be admissible as evidence of the matters contained therein.

38. Exemptions. Where pursuant to the regulations, exemption or conditional exemption from compliance with all or any of the provisions of this Act is granted, the provisions in respect of which the exemption or conditional exemption is granted shall, while the exemption or conditional exemption remains in force, cease to apply to the extent provided by the regulations subject, in the case of a conditional exemption, to the conditions imposed.

39. Service of documents. A notice or other document required by this Act to be given by the Commissioner to any person may be given—

- (a) by serving it personally on the person to whom it is directed;
- (b) by leaving it at the address of the place of residence of the person to whom it is directed last known to the person by whom it is required to be given;

- (c) by prepaid post letter addressed to the person to whom it is directed at the address of the place of his residence last known to the person by whom it is required to be given:

40. Offences generally and penalty. (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) Where in relation to a condition of a licence referred to in paragraph (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) or (p) of subsection 2 of section 12 a person—

- (a) does that which by the condition he is forbidden to do; or
 (b) fails to do that which by the condition he is required or directed to do,

he and, where he is not the holder of the licence, the holder of the licence commits an offence against this Act.

(3) Save where a specific penalty is otherwise prescribed a person who commits an offence against this Act is liable to a penalty of \$500.

(4) A penalty imposed by this Act may be recovered by way of summary proceedings before a magistrates court constituted under *The Justices Acts 1886 to 1968*.

(5) A court before which a person is convicted of an offence against this Act shall cause particulars of the conviction to be furnished to the Commissioner.

41. Offences by body corporate. (1) Where a body corporate commits an offence against this Act each of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly:—

- (a) the managing director, manager or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called; and
 (b) every person who in Queensland manages, or acts or takes part in the management, administration or government of the business in Queensland of the body corporate.

(2) This section applies so as not to limit or affect howsoever the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

42. Indemnity to persons administering Act. A person does not incur liability for anything done for the purposes of this Act or done in good faith and purporting to be for the purposes of this Act.

43. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) the making of applications for licences, certificates or permits;
 (b) the issue and renewal of licences or certificates; the issue of permits;
 (c) the return of expired licences or certificates;
 (d) the granting and issuing of duplicate licences, certificates or permits;
 (e) obtaining and dealing with towing authorities;

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- (f) the forms to be used for the purposes of this Act and the identification in a form of licence, certificate or permit of the holder thereof;
 - (g) the duties and standard of conduct of persons operating tow-trucks and of persons employed on or about tow-trucks;
 - (h) the inspection of tow-trucks by an authorized officer for the purposes of determining whether or not they comply with this Act and the action to be taken if tow-trucks do not so comply, and in connexion with any inspection authorizing the entry in or upon any tow-truck, building or place;
 - (i) the powers of an authorized officer to enter upon premises from which a tow-truck operator conducts his business and to inspect, seize and make copies of those records, and the production of those records by any person having custody thereof upon the requisition of an authorized officer;
 - (j) the production to authorized officers and other prescribed persons of licences, certificates, permits and other documents;
 - (k) the fees payable under this Act and the purposes for which those fees are payable, and the fixing of those fees;
 - (l) the design, classification, construction, equipment and identification of tow-trucks;
 - (m) the qualifications and ages of drivers of tow-trucks;
 - (n) the conditions under which tow-trucks may be operated;
 - (o) premises or places to which tow-truck operators deliver or cause to be delivered motor vehicles towed by the tow-truck they operate and the use of those premises or places by those operators and the towing of motor vehicles thereto;
 - (p) the making of investigations into the charges being made or that should be made for towing or salvaging damaged motor vehicles; the appointment of persons to make such investigations; the powers and duties of such persons;
 - (q) the amount to be charged by operators of tow-trucks for the towing or salvaging of motor vehicles and fixing maximum and minimum charges therefor;
 - (r) notification of the sale, disposal or acquisition of licensed tow-trucks or tow-trucks in respect of which permits have been issued;
 - (s) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act and the revocation of any exemption or conditional exemption so granted;
 - (t) the institution and conduct of and all matters pertaining to appeals against the Commissioner's decisions for the purposes of this Act;
 - (u) prescribing any offences under this Act to be offences in respect of which a notice may be given to an offender or affixed to a vehicle advising that a prescribed penalty may be paid for any such offences without involving court proceedings, which offences may be prescribed separately or by reference to a particular part of this Act or by a general statement incorporating reference to offences against any provision of this Act or any offence except specified offences against the provisions of this Act;

- (v) prescribing sums of money that shall be payable as penalties in respect of offences so prescribed, which sums may be prescribed differently in relation to different offences or differently in relation to any such offence according to previous like offences or the time, place or circumstances related to the commission of the offence;
 - (w) prescribing such other matters as shall be shown on any notice given to an offender or affixed to a vehicle;
 - (x) all matters required or permitted by this Act to be prescribed where the method of prescription is not otherwise provided;
 - (y) penalties not exceeding \$200 for any contravention of or failure to comply with the regulations;
 - (z) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the object and purposes of this Act.
- (2) Regulations may be made—
- (a) to apply generally or to meet a particular case or class of case;
 - (b) to apply throughout the whole State or within any part of the State.