

Queensland



Subordinate Legislation 1999 No. 142

Tow Truck Act 1973

TOW TRUCK REGULATION 1999

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TOW TRUCK REGULATION 1999

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Tow Truck Regulation 1999*.

Commencement

2. This regulation commences on 1 July 1999.

Definitions

3.(1) The dictionary in schedule 5 defines particular words used in this regulation.

(2) Definitions used elsewhere in the regulation are signposted in the dictionary.

PART 2—APPROVALS

Division 1—Who may apply

Eligibility to apply for a driver's certificate

4.(1) A person is eligible to apply for a driver's certificate if the person—

- (a) is 18 years or more; and
- (b) holds a driver's licence authorising the driving of the class of vehicle for which the certificate is sought; and
- (c) is able to show the person has the ability to drive a tow truck.

(2) A person is able to show the person has the ability to drive a tow truck if the person—

- (a) has held a driver's licence authorising the driving of a tow truck of the class for which the certificate is sought for a continuous period of 3 years before an application for the certificate is made; or
- (b) can demonstrate, to the satisfaction of the chief executive, by a practical driving test, that the person has—
 - (i) the ability to drive and properly control a tow truck of the class for which the certificate is sought whilst towing a motor vehicle; and
 - (ii) the ability to position a tow truck and correctly prepare a motor vehicle for towing; and
 - (iii) a thorough knowledge of the correct procedures for towing various classes of motor vehicles.

Eligibility to apply for an assistant's certificate

5. A person is eligible to apply for an assistant's certificate if the person is 16 years or more.

Division 2—Application for an approval

Definition for div 2

6. In this division—

“**applicant**” means a person applying for an approval.

Application for approval

7. An application for an approval must be—

- (a) made in the approved form; and
- (b) supported by enough information to enable the chief executive to decide the application; and
- (c) accompanied by the prescribed fee.

Chief executive may require satisfactory evidence

8.(1) Before deciding an application, the chief executive may by written notice to the applicant require the applicant to produce satisfactory evidence to the chief executive of any of the following—

- (a) the applicant's—
 - (i) name and address; and
 - (ii) age; and
 - (iii) current driver's licence;
- (b) whether the applicant has previously been the holder of an approval issued under the Act or under a corresponding law;
- (c) any other information relevant to the application required by the chief executive.

(2) In this section—

“corresponding law” means a law of another state that provides for the same matter as the Act.

Applicant to undertake test or be medically examined

9.(1) Before deciding an application, the chief executive may, by written notice to the applicant require the applicant to—

- (a) undertake a test decided by the chief executive; or
- (b) be medically examined by a doctor.

(2) If the applicant is examined under subsection (1)(b), the applicant must give to the chief executive a medical certificate signed by the doctor who examined the applicant stating—

- (a) the doctor personally examined the applicant knowing the person to be an applicant; and
- (b) the date of the examination; and
- (c) if, in the doctor's opinion, having regard to the health and safety of the public generally, the applicant is mentally and physically an appropriate person to hold an approval.

(3) The chief executive may require the applicant to obtain the medical certificate, or a further medical certificate, from a doctor decided by the chief executive.

(4) In this section—

“test” includes a written or oral test and a driving test.

Division 3—Grant, renewal or refusal of an approval

Grant of certificate or miscellaneous permit

10.(1) The chief executive must refuse an application for a certificate, or for a miscellaneous permit, if the applicant is not an eligible person to apply for a certificate under section 4 or 5;

(2) The chief executive may refuse an application for a certificate or a miscellaneous permit if—

- (a) the applicant has been convicted of a disqualifying offence; or
- (b) the applicant has had a driver’s licence suspended, modified or cancelled.

(3) However, subsection (2)(a) does not apply if the rehabilitation period for the conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired or has not been revived.

Identity card for holder of a certificate

11.(1) If the chief executive grants a certificate to a person, the chief executive must give the person an identity card.

(2) The identity card must—

- (a) contain a recent photograph of the person; and
- (b) identify the person as a certificate holder; and
- (c) state the person’s identifying number as a certificate holder; and
- (d) state an expiry date; and
- (e) be signed by the certificate holder.

Holder to sign certificate or miscellaneous permit

12. If the chief executive grants a certificate or a miscellaneous permit to a person, the person must on receipt of the certificate or permit, sign it in ink with the person's usual signature in the space provided on the certificate or permit.

Maximum penalty—20 penalty units.

Duplicate approval

13.(1) The holder of an approval that has been lost or damaged, must apply to the chief executive for a duplicate approval within 7 days of the loss or damage.

Maximum penalty—20 penalty units.

(2) The application must be in the approved form accompanied by—

- (a) the prescribed fee; and
- (b) the original approval, unless it has been lost.

(3) On receipt of an application under subsection (2), the chief executive must if satisfied that the approval has been lost or damaged, issue a duplicate approval.

(4) On issue, the duplicate approval becomes the approval and the original approval ceases to have effect.

(5) In this section—

“lost” includes stolen or destroyed.

Division 4—Obligations of an approval holder**Conditions of licence**

14.(1) It is a condition of every licence that a licence holder must—

- (a) offer towing services, 24 hours a day, 7 days a week; and
- (b) conduct the business from premises owned or leased solely by the licence holder; and

- (c) conduct the business from premises that conform with the requirements of the relevant local government under the *Local Government Act 1993*; and
- (d) supply communication equipment suitable for the deployment of mobile units—
 - (i) at the premises; and
 - (ii) in motor vehicles licensed under the Act; and
- (e) have a holding yard as a place of safe storage.

(2) However, the chief executive may exempt a licence from a condition mentioned in subsection (1).

(3) In deciding whether or not to give the exemption, the chief executive must consider the following—

- (a) whether a condition has been substantially complied with;
- (b) whether compliance with the condition is unnecessary in the particular circumstances;
- (c) whether the action taken or proposed to be taken for the matter that is the subject of the exemption is as effective as, or more effective than, compliance with the condition.

(4) A person must not contravene a condition of a licence imposed under subsection (1).

Maximum penalty—20 penalty units.

Change of name and address

15.(1) If the holder of an approval changes the holder's name or residential or business address, the holder must within 14 days—

- (a) notify the chief executive in writing; and
- (b) produce the approval to the chief executive to note the change.

Maximum penalty—20 penalty units.

(2) If the chief executive is satisfied the information supplied by the holder is correct, the chief executive must endorse the change on the approval.

(3) The endorsement must state—

- (a) the changed name or residential or business address; and
- (b) the date the endorsement was made.

Licence or towing permit to be kept in safe custody

16. The holder of a licence or a towing permit must keep the licence or permit in safe custody at the place of business stated in the licence or permit.

Maximum penalty—20 penalty units.

Certificate or miscellaneous permit to be carried

17. The holder of a certificate or a miscellaneous permit must carry the certificate or permit while acting or purporting to act under the authority of the certificate or permit.

Maximum penalty—20 penalty units.

Dress of holder of approval

18. The holder of an approval must, when acting under the authority of the approval, be neatly dressed.

Maximum penalty—20 penalty units.

Conduct of holder of approval

19.(1) The holder of an approval must not when acting under the authority of the approval—

- (a) advertise or promote the business of anyone other than the holder of the licence or towing permit under which the holder is acting; or
- (b) seek business for anyone other than the holder of the licence or towing permit under which the holder is acting; or

- (c) wear clothing displaying, or display, including display on the tow truck stated in the approval, any advertising or markings other than the following particulars—
- (i) the business name, place of business or telephone number of the approval holder;
 - (ii) the name of the wearer;
 - (iii) if the holder is the agent of an approved organisation—the details mentioned in subparagraph (i) for the approved organisation.

Maximum penalty—20 penalty units.

(2) The particulars mentioned in subsection (1)(c) must be in printing of a uniform size and style.

Maximum penalty—20 penalty units.

(3) In this section—

“approved organisation” means—

- (a) a motoring organisation; or
- (b) an organisation providing benefits for motorists; approved in writing by the chief executive.

No disclosure of information

20. The holder of an approval must not disclose information about an incident or seizure of a motor vehicle obtained while acting under the authority of the approval, to anyone other than—

- (a) the owner of a motor vehicle involved in the incident or seizure, or the owner’s agent; or
- (b) an authorised officer; or
- (c) the holder’s principal or employer, or an agent or employee of the holder, where the agency or employment is directly related to the towing of motor vehicles.

Maximum penalty—20 penalty units.

Remaining at the scene of an incident

21.(1) The holder of an approval acting under the authority of the approval must not remain at the scene of an incident if the tow truck the holder is operating is not classified to tow a motor vehicle involved in the incident.

Maximum penalty—20 penalty units.

(2) The holder does not contravene subsection (1) if the holder remains at the scene to give first aid to a person injured in the incident.

Division 5—Other obligations**Damaging or destroying documents**

22. A person must not wilfully damage or destroy an approval or towing authority.

Maximum penalty—20 penalty units.

Delivery of expired approval

23. A person who was the holder of an approval that has expired must deliver the approval to the chief executive within 14 days after it expires.

Maximum penalty—20 penalty units.

Division 6—Cancellation, suspension or surrender of approval**Additional grounds for amending, suspending or cancelling licence or certificate**

24. Each of the following is a ground for amending, suspending or cancelling a licence or certificate—

- (a) the holder of the licence or certificate becomes incapable of properly driving the class of motor vehicle stated in the licence or certificate because of a medical condition, or physical or mental incapacity;

- (b) the holder of the licence or certificate has, since the issue of the approval, been charged with or convicted of a disqualifying offence;
- (c) the holder of the licence or certificate has permitted the motor vehicle stated in the licence or certificate to become unsafe for use under the licence or certificate;
- (d) the holder of the licence or certificate has given false or misleading information—
 - (i) to the chief executive in an application for the renewal of the licence or certificate; or
 - (ii) to an authorised officer.¹

Procedure for amending, suspending or cancelling licence or certificate

25.(1) If the chief executive considers a ground exists to amend, suspend or cancel a licence or certificate (the **“proposed action”**), the chief executive must give the holder of the licence or certificate written notice—

- (a) stating the proposed action; and
- (b) stating the ground for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the ground; and
- (d) if the proposed action is to amend the licence or certificate (including a condition of the licence or certificate)—stating the proposed amendment; and
- (e) if the proposed action is to suspend the licence or certificate—stating the proposed suspension period; and
- (f) inviting the holder to show (within a stated time of at least 28 days) why the proposed action should not be taken.

(2) If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—

¹ Section 21 of the Act also states grounds for the chief executive to cancel or suspend licences or certificates.

- (a) if the proposed action was to amend the licence or certificate—amend the licence or certificate; or
- (b) if the proposed action was to suspend the licence or certificate—suspend the licence or certificate for no longer than the period stated in the notice; or
- (c) if the proposed action was to cancel the licence or certificate—amend the licence or certificate, suspend the licence or certificate for a period, or cancel the licence or certificate.

(3) The notice the chief executive must give the holder of the licence or certificate under section 28 of the Act if the chief executive suspends or cancels the licence or certificate, must also state the holder may appeal against the chief executive's decision under that section.

(4) If the amendment the chief executive decides to make is other than the imposition or variation of a condition mentioned in section 28(b) or (c) of the Act, the chief executive must give the holder the notice required under that section and subsection (3) for the amendment.

(5) The decision takes effect on the later of the following—

- (a) the day the notice under section 28 of the Act or subsection (4) is given to the holder;
- (b) the day stated in the notice.

(6) However, despite subsection (1), if the chief executive considers it necessary in the public interest, the chief executive may, by written notice given to the holder, immediately suspend the licence or certificate until the earliest of the following—

- (a) the chief executive informs the holder of the licence or certificate of the chief executive's decision by notice under section 28 of the Act or subsection (4), given after complying with subsections (1) and (2);
- (b) the end of 56 days after the notice is given to the holder.

(7) If the chief executive immediately suspends the licence or certificate, the notice must state the reasons for the decision.

(8) Subsections (1) to (7) do not apply—

- (a) if the chief executive proposes to amend the licence or certificate only—
 - (i) for a formal or clerical reason; or
 - (ii) in another way that does not adversely affect the interests of the holder; or
- (b) if the holder asks the chief executive to amend or cancel the licence or certificate and the chief executive proposes to give effect to the request.

(9) The chief executive may amend or cancel a licence or certificate under subsection (8) by written notice given to the holder.

Surrender of approval

26.(1) The holder of an approval may surrender the approval by sending it to the chief executive with written notice of the surrender.

(2) The approval ceases to have effect on the day the notice is received by the chief executive, unless a later date is stated in the notice.

PART 3—APPOINTMENT OF AUTHORISED OFFICERS

Appointment of authorised officers

27.(1) The chief executive may appoint an officer or employee of the public service to be an authorised officer.

(2) The chief executive may appoint a person as an authorised officer only if satisfied the person has the necessary expertise to be an authorised officer.

Powers of authorised officer

28.(1) An authorised officer—

- (a) has the powers given under the Act; and

- (b) is subject to the directions of the chief executive in exercising the powers.
- (2) The powers may be limited—
 - (a) for an authorised officer appointed under section 27—under a condition of appointment; or
 - (b) otherwise—by written notice given by the chief executive to the authorised officer.

Appointment conditions

29.(1) An authorised officer appointed under section 27 holds office on the conditions stated in the instrument of appointment.

- (2) An authorised officer—
 - (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
 - (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions (the “**main office**”); and
 - (c) may resign by signed notice given to the chief executive or commissioner.

(3) However, an authorised officer may not resign from the office under this Act (the “**secondary office**”) if a term of employment to the main office requires the officer to hold the secondary office.

Identity cards

30.(1) This section does not apply to an authorised officer who is a police officer.

- (2) The chief executive must give each authorised officer an identity card.
- (3) The identity card must—
 - (a) contain a recent photo of the person; and
 - (b) be signed by the person; and
 - (c) identify the person as an authorised officer; and

(d) state an expiry date.

(4) A person who stops being an authorised officer must return the person's identity card to the chief executive as soon as practicable (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) This section does not prevent the giving of a single identity card to a person for this regulation and another Act.

Production or display of identity cards

31.(1) This section does not apply to an authorised officer who is a uniformed police officer.

(2) An authorised officer may exercise a power in relation to a person only if—

(a) the officer—

(i) for an officer who is a police officer—first produces the officer's police identity card for the person's inspection; or

(ii) for any other officer—first produces the officer's identity card for the person's inspection; or

(b) the officer has the officer's identity card displayed so it is clearly visible to the person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the officer must produce the identity card as soon as it is practicable.

PART 4—POWERS OF AUTHORISED OFFICER

Entry to places

32.(1) An authorised officer may enter a place if—

(a) the officer reasonably believes that the place is—

- (i) a place stated in a licence as the place from which the business of operating a tow truck is conducted; or
- (ii) a holding yard for the business;

and the entry is made when the place is open for the conduct of the business; or

- (b) its occupier consents to the entry; or
- (c) it is a public place and the entry is made when it is open to the public; or
- (d) the entry is authorised by a warrant.

(2) For subsection (1)(a), a place of business does not include a part of a place where a person resides.

Consent to enter

33.(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another officer entering the place under section 32(1)(b).

(2) Before asking for the consent, the officer must inform the occupier—

- (a) of the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state that—

- (a) the occupier was informed—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
- (b) the occupier gives an authorised officer consent to enter the place and exercise powers under the Act; and
- (c) the time and date the consent was given.

(5) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.

(6) A court must find the occupier of a place did not consent to an authorised officer entering the place under this part if—

- (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 32(1)(b); and
- (b) an acknowledgment mentioned in subsection (3) is not produced in evidence for the entry; and
- (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

Warrants to enter

34.(1) An authorised officer may apply to a magistrate for a warrant to enter a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against the Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that an authorised officer may, with necessary and reasonable help and force, enter the place and exercise the officer’s powers under the Act; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and

- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 7 days after the warrant's issue, the warrant ends.

General powers after entering places

35.(1) This section applies to an authorised officer who enters a place with the occupier's consent or a warrant.

(2) The officer may, for monitoring or enforcing compliance with the Act—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film the place or anything in the place; or
- (c) take samples of anything in the place; or
- (d) copy a document in the place; or
- (e) take the persons, equipment and materials the officer reasonably requires for exercising a power under the Act into the place; or
- (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

(3) A person must comply with a requirement under subsection (2)(f), unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(4) A requirement under subsection (2)(f) does not include a requirement to produce a document or give information.

Power to require holding yard to be repaired or changed

36.(1) This section applies if an authorised officer reasonably believes a holding yard of a holder of a licence or towing permit, does not comply with the Act.

(2) The authorised officer may by written notice to the holder, require the holder to repair or change the holding yard within a reasonable time stated in the notice.

(3) The holder must not contravene the requirement unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

Power to inspect or test tow trucks

37.(1) This section applies to a tow truck that is—

- (a) at the scene of an incident or seizure; or
- (b) in a place an authorised officer has entered under section 32.

(2) To check whether the tow truck complies with the Act, an authorised officer may inspect or test it.

(3) To enable the officer to inspect or test the tow truck, the officer may do anything reasonable to be done for the inspection or test.

Examples of what may be reasonable for an inspection or test—

The officer may—

- (a) enter the tow truck; or
- (b) unlock, unfasten, open or remove any part of it; or
- (c) move a vehicle the tow truck is towing.

Power to enter and search tow trucks

38.(1) This section applies to a tow truck that is—

- (a) at the scene of an incident or seizure; or
- (b) in a place an authorised officer has entered under section 32.

(2) An authorised officer may, for monitoring or enforcing compliance with the Act, exercise the powers mentioned in section 35 for the tow truck as if the tow truck were a place for that section.

Power to require tow truck to be presented for inspection

39.(1) This section applies if an authorised officer reasonably believes a tow truck stated in a licence or towing permit does not comply with the Act.

(2) The authorised officer may by written notice to the holder of the licence or towing permit require the holder to present the tow truck for inspection at a reasonable time and place stated in the notice.

(3) The holder must not contravene the requirement unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

Power to require tow truck to be repaired

40.(1) This section applies if an authorised officer reasonably believes a tow truck stated in a licence or towing permit does not comply with the Act.

(2) The authorised officer may by notice in the approved form to the holder of the licence or towing permit require the holder to—

- (a) repair the tow truck within a reasonable time stated in the notice; and
- (b) present the tow truck to the authorised officer at a reasonable time and place stated in the notice to ensure the tow truck has been repaired and complies with the Act.

(3) The holder must not contravene the requirement unless the holder has a reasonable excuse.

Maximum penalty—20 penalty units.

(4) In this section—

“**repair**” includes modify or adjust.

Power to prohibit use of tow truck

41.(1) This section applies if an authorised officer reasonably believes a tow truck stated in a licence or towing permit does not comply with the Act.

(2) The authorised officer may, by notice in the approved form, require the holder of the licence or towing permit, not to use the tow truck, or permit it to be used, on a road until—

- (a) it is inspected at a stated reasonable place and found to comply with the Act; or

- (b) stated reasonable action is taken in relation to the vehicle to ensure it complies with the Act.

(3) A person must not contravene a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Power to seize evidence

42.(1) An authorised officer who enters a place under this part with the occupier's consent may seize a thing in the place if—

- (a) the officer reasonably believes the thing is evidence of an offence against the Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(2) An authorised officer who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

(3) An authorised officer who enters a tow truck under section 38 may seize a thing in the tow truck if the officer reasonably believes the thing is evidence of an offence against the Act.

(4) An authorised officer may also seize anything else in a place or a tow truck mentioned in subsection (1) or (3) if the officer reasonably believes—

- (a) the thing is evidence of an offence against the Act; and
- (b) the seizure is necessary to prevent the thing being hidden, lost, destroyed or used to continue or repeat the offence.

Receipt for seized things

43.(1) As soon as practicable after an authorised officer seizes a thing, the officer must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.

(3) An authorised officer need not give a receipt for a seized thing if—

- (a) the thing is unattended when seized; and
- (b) the officer does not know who the owner of the thing is; and
- (c) the officer can not find the owner after making reasonable inquiries (given the thing's value).

(4) The receipt must generally describe each thing seized and its condition.

Access to seized things

44. Until a seized thing is forfeited or returned, an authorised officer must allow its owner—

- (a) to inspect it; or
- (b) if it is a document—to copy it.

Return of seized things

45.(1) If a seized thing has not been forfeited, the chief executive must return it to its owner at the end of—

- (a) 6 months; or
- (b) if a proceeding for an offence involving it is started within the 6 months—the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), the authorised officer must return the seized thing to its owner immediately the officer stops being satisfied its retention as evidence is necessary.

Power to require name and address

46.(1) This section applies if—

- (a) an authorised officer finds a person committing an offence against the Act; or
- (b) an authorised officer finds a person in circumstances that lead, or has information that leads, the officer to suspect, on reasonable grounds, the person has just committed an offence against the Act.

(2) The officer may require the person to state the person's name and address.

(3) When making the requirement, the officer must warn the person it is an offence to fail to state the person's name or address, unless the person has a reasonable excuse.

(4) The officer may require the person to give evidence of the correctness of the stated name or address if the officer suspects, on reasonable grounds, the stated name or address is false.

(5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(6) A person does not commit an offence against subsection (5) if—

- (a) the person was required to state the person's name and address by an authorised officer who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

Expiry of pt 4

47. This part expires on 31 December 2000.

PART 5—GENERAL

Records to be kept

48.(1) The holder of a licence or towing permit, must record the prescribed particulars for every motor vehicle towed under the licence or towing permit from the scene of an incident or seizure—

- (a) at the place of business stated in the licence or permit; and
- (b) within 24 hours of the particulars being supplied to, or becoming known to, the holder.

Maximum penalty—20 penalty units.

(2) In this section—

“prescribed particulars” means the following particulars—

- (a) the name and address of the person who gave the holder information about the incident or seizure;
- (b) the place, date and approximate time of the incident or seizure;
- (c) the make, and registration or other identification number, of the vehicles in the incident or seizure;
- (d) the registration or other identification number of the tow trucks attending the incident or seizure.

Custody of records

49. The holder of a licence or towing permit must keep a record made under section 48—

- (a) in safe custody at the place of business stated in the licence or permit; and
- (b) for at least 12 months from the day the record was made.

Maximum penalty—20 penalty units.

Towing authority to be completed

50. The driver of a tow truck who intends to tow a motor vehicle from the scene of an incident or seizure must properly and fully complete a towing authority for the motor vehicle for signature by the owner of the motor vehicle, the owner’s agent or an authorised officer.

Maximum penalty—20 penalty units.

Authorised officer may authorise tow

51.(1) This section applies if the owner of a damaged or seized motor vehicle, or the owner’s agent, is absent from the motor vehicle or incapacitated.

(2) An authorised officer may sign a towing authority for the motor vehicle.

(3) The driver of a tow truck towing the motor vehicle under the towing authority must tow the motor vehicle to—

- (a) the nearest holding yard available to the driver; or
- (b) if directed by a police officer, to the nearest police station or other premises directed by the police officer.

Maximum penalty—20 penalty units.

(4) If the motor vehicle to be towed is a damaged motor vehicle, the holder of the licence or towing permit for the tow truck stated in the towing authority must give the original towing authority to the chief executive within 7 days after the motor vehicle is towed.

Maximum penalty—20 penalty units.

(5) If the motor vehicle to be towed is a seized motor vehicle, the driver of a tow truck stated in the towing authority, must give the original towing authority to the authorised officer before the motor vehicle is towed.

Maximum penalty—20 penalty units.

Shortest route to be used

52. The driver of a tow truck authorised by a towing authority to tow a motor vehicle from the scene of an incident or seizure must, as soon as practicable, tow the motor vehicle to the address stated on the towing authority by the shortest and most direct route.

Maximum penalty—20 penalty units.

Vehicle owner liable for towing charge

53.(1) This section applies if a motor vehicle is towed under a towing authority signed by an authorised officer.

(2) The owner of the motor vehicle is liable for the payment of the towing charges payable for towing the motor vehicle.

Towing charges

54.(1) The holder of an approval must not charge more than the amount stated in schedule 3 for a standard tow of a damaged motor vehicle from an incident.

Maximum penalty—20 penalty units.

(2) The holder of an approval may only charge an amount that is reasonable in all the circumstances for towing—

- (a) a damaged motor vehicle from an incident other than a standard tow; or
- (b) a seized motor vehicle.

Maximum penalty—20 penalty units.

(3) In this section—

“standard tow” includes—

- (a) up to 60 minutes working time at the scene; and
- (b) removing the motor vehicle from the scene to a place stated in the towing authority; and
- (c) up to 72 hours storage of the motor vehicle in a holding yard.

“working time” means time spent at the scene of an incident—

- (a) preparing a motor vehicle for towing; and
- (b) cleaning up the scene of the incident;

after the owner of the motor vehicle, the owner’s agent or an authorised officer has signed a towing authority for the motor vehicle.

No charge for business hours viewing

55. A person must not impose a charge on the owner of a motor vehicle stored in the yard, or the owner’s agent, to view the motor vehicle during business hours.

Maximum penalty—20 penalty units.

Notice of storage charges

56. The holder of a licence or towing permit must not impose a charge for the storage of a motor vehicle in the holder's holding yard unless the holder gives the owner of the motor vehicle, or the owner's agent, written notice, served by post or by delivering it to the owner personally, stating—

- (a) the charge is to be imposed no sooner than 2 days after service of the notice; and
- (b) the amount of the charge.

Maximum penalty—20 penalty units.

Removal from place of storage

57.(1) A person must not charge for towing or moving a motor vehicle stored in a holding yard to the entrance of the yard.

Maximum penalty—20 penalty units.

(2) Subsection (3) applies if—

- (a) a motor vehicle is stored in the holding yard of the holder of a license or towing permit; and
- (b) the owner of the motor vehicle, or the owner's agent requests the holder to release the motor vehicle.

(3) The holder must release the motor vehicle as soon as is practicable but no longer than 4 business hours after the request by towing or moving the motor vehicle to an accessible position at the entrance of the holding yard.

Maximum penalty—20 penalty units.

Chief executive may investigate charges

58. The chief executive may investigate the charges imposed for towing or salvaging a motor vehicle.

Movable property to be kept in safe custody

59. The holder of a licence or towing permit must keep movable property mentioned in section 12(2)(h) of the Act in safe custody until the property is returned to the owner or the owner's agent.

Maximum penalty—20 penalty units.

Tow truck specifications

60.(1) A person must not drive, use or operate a tow truck unless the tow truck—

- (a) is in a good and serviceable condition; and
- (b) conforms with the requirements of schedule 1.

Maximum penalty—20 penalty units.

(2) In this section—

“tow truck” includes a trailer carrying a motor vehicle.

Disposal of tow truck

61.(1) The holder of a licence or towing permit must, before disposing of a tow truck, remove from the tow truck any marking that indicates or tends to indicate that it is a tow truck that a licence or permit applies to.

Maximum penalty—20 penalty units.

(2) The holder must, within 7 days of disposing of a tow truck, give the chief executive written notice of the name and address of the person acquiring the tow truck.

Maximum penalty—20 penalty units.

(3) The holder must—

- (a) if the licence or permit is for that tow truck only—surrender and return the licence or permit to the chief executive; or
- (b) if the licence or permit is for more than one tow truck—return the licence or permit to the chief executive for amendment; and

- (c) return to the chief executive any towing authorities issued for the tow truck.

Maximum penalty—20 penalty units.

Exemption from the Act, ss 5, 13 and 26

62.(1) A person who travels in, or is employed on or about, or who uses a tow truck, in any of the circumstances mentioned in subsection (2) is exempt from sections 5, 13 and 26 of the Act.

(2) The circumstances for subsection (1) are when the tow truck is—

- (a) being used to tow—
 - (i) a motor vehicle that is registered under the *Transport Infrastructure (Roads) Regulation 1991*, in the name of the owner of the tow truck; or
 - (ii) a motor vehicle other than a damaged or seized motor vehicle; or
- (b) being used by a qualified motor mechanic for road testing the tow truck, for, or after completion of, mechanical adjustment or repairs to the tow truck or its equipment; or
- (c) being used in an area outside an area stated in schedule 4.

Exemption from Act if no class 4 tow truck

63.(1) This section applies if the recovery of a damaged or seized motor vehicle (the “**recovered vehicle**”) from the scene of an incident or seizure requires a class 4 tow truck, and no class 4 tow truck is based within a 100 km radius of the scene of the incident or seizure.

(2) A person who uses a motor vehicle equipped with a crane or hoist, having a safe working load of not less than 5 t, to recover and load the recovered vehicle on the motor vehicle for removal from the scene of the incident or seizure, is exempt from the Act if the person uses the motor vehicle in accordance with directions given by an authorised officer.

Fees

64. The fees payable under the Act are stated in schedule 2.

PART 6—TRANSITIONAL PROVISIONS**Existing approvals**

65.(1) This section applies if an approval in force under the Act immediately before the commencement of this section is subject to a condition imposed under the expired regulation.

(2) The condition is taken to be imposed under this regulation and continues to apply to the approval to the greatest practicable extent until the approval expires or it is sooner amended or cancelled.

(3) In this section—

“expired regulation” means the *Tow Truck Regulation 1988* in force immediately before its expiry on 30 June 1999.

**PART 7—AMENDMENT OF JUSTICES
REGULATION 1993****Amendment of Justices Regulation 1993**

66. This part amends the *Justices Regulation 1993*.

Amendment of sch 1, pt 34

67. Schedule 1, part 34—

omit, insert—

‘PART 34—TOW TRUCK REGULATION 1999

‘Table of infringement notice offences and penalties

‘1. The following is the table of infringement notice offences and penalties—

Column 1	Column 2
Infringement notice offence	Infringement notice penalty (penalty units)
s 13(1)	1
s 14(4)	4
s 15 (1)	2
s 16	2
s 17	2
s 19(1)	5
s 20	5
s 21(1)	3
s 23	2
s 39(3)	2
s 48(1)	2
s 49	2
s 50	4
s 54(1)	5
s 55	3
s 56	3
s 57	3
s 59	3
s 60(1)	3

‘Authorised person for service of infringement notice

‘2. An authorised officer under the *Tow Truck Act 1973*.’

Expiry of pt 7

68. This part expires on 1 January 2000.

SCHEDULE 1**TOW TRUCK SPECIFICATIONS**

section 60

PART 1—TRAY OR PLATFORM TOW TRUCKS

1. This part applies only to a tow truck that is a tray tow truck or platform tow truck.

2. Tow trucks are classified as 1 of the following classifications—

- (a) class 1T;
- (b) class 2T;
- (c) class 3T;
- (d) class 4T;
- (e) class 5T.

3. A tow truck must have a load capacity appropriate to the loaded mass of any motor vehicle it is required to carry for its classification.

4. A class 1T tow truck must have a load capacity of not less than 2.4 t.

5. A class 2T tow truck must have a load capacity of not less than 5.5 t.

6. A class 3T tow truck must have a load capacity of not less than 11 t.

7. A class 4T tow truck must have a load capacity of not less than 16 t.

SCHEDULE 1 (continued)

8. A class 5T tow truck—

- (a) must have a load capacity of not less than 100 kg; and
- (b) is equipped with a rack able to hold a motor cycle in a secure position while carrying the motor cycle.

PART 2—TOW TRUCKS OTHER THAN TRAY OR PLATFORM TOW TRUCKS

1. This part applies only to a tow truck that is a tow truck other than a tray tow truck or a platform tow truck.

2. Tow trucks are classified as 1 of the following classifications—

- (a) class 1;
- (b) class 2;
- (c) class 3;
- (d) class 4.

3. A tow truck must have a load capacity appropriate to the loaded mass of any motor vehicle it is required to carry for its classification.

4. A class 1 tow truck must—

- (a) have a load capacity of not less than 1.2 t; and
- (b) be equipped with a crane or hoist with a safe working load of not less than 1 t; and
- (c) be limited to the lifting and carrying or towing of motor vehicles with a loaded mass of not more than 2 t.

SCHEDULE 1 (continued)

- 5.** A class 2 tow truck must—
- (a) have a load capacity of not less than 3 t; and
 - (b) be equipped with a crane or hoist with a safe working load of not less than 2.5 t; and
 - (c) be limited to the lifting and carrying or towing of a motor vehicle with a loaded mass of not more than 5 t.
- 6.** A class 3 tow truck must—
- (a) have a load capacity of not less than 6 t; and
 - (b) be equipped with a crane or hoist with a safe working load of not less than 5 t; and
 - (c) be limited to the lifting and carrying or towing of a motor vehicle with a loaded mass of not more than 10 t.
- 7.** A class 4 tow truck must—
- (a) have a minimum gross combination mass of 25 t; and
 - (b) be equipped with—
 - (i) tandem or tri rear axle group; and
 - (ii) a power operated winch; and
 - (iii) a crane or hoist having a safe working load not less than 5 t.
- 8.** A tow truck must have the following—
- (a) sufficient means for supporting a load in its raised position while under tow;
 - (b) be fitted with dual wheels on the rear axle or axles;
 - (c) if it has a trailer that a motor vehicle is or may be carried on—the trailer must be fitted with at least 2 axles fitted either with single wheels or dual wheels;

SCHEDULE 1 (continued)

- (d) to ensure that some of the mass of the towed motor vehicle will be taken on at least two wheels on a single axle before the tow truck is put in motion—
 - (i) spacer bars designed to minimise any damage that may be caused to the towed motor vehicle; and
 - (ii) safety chains.

9. When a motor vehicle has been fully lifted by a tow truck the motor vehicle must—

- (a) be wholly supported on—
 - (i) the carrying area of the tow truck; or
 - (ii) a trailer that complies with the construction requirements of the *Traffic Regulation 1962* and the *Transport Operations (Road Use Management) Regulation 1995* and is registered under the *Transport Infrastructure (Roads) Regulation 1991*; and
- (b) be adequately secured before the tow truck is moved.

10. The loaded mass of a motor vehicle being lifted must not be more than the total mass of the tow truck.

PART 3—EQUIPMENT

1. Dolly wheel equipment must comply with the following requirements—

- (a) be used only in conjunction with a class 1 tow truck;
- (b) not be more than 2.5 m in overall width;

SCHEDULE 1 (continued)

- (c) be equipped with suitable curved tyre saddles of sufficient length to adequately support the load;
- (d) have a load capacity of not less than 1.2 t;
- (e) be fitted with adequate means to restrain the particular axles of the motor vehicle being supported by the dolly wheels before and during towing;
- (f) be conspicuously marked in letters and figures of not less than 50 mm in height and 25 mm in width as follows:—
“Max. load 1.2 t”.

PART 4—REQUIREMENTS

1. A winch fitted to a tow truck must be adequately mounted and the load applied to the winch must not be more than the safe working load specified for that winch.

2. A tow truck must be maintained as required under the *Transport Operations (Road Use Management—Motor Vehicles Safety) Transitional Regulation 1994*.

3.(1) A tow truck must have markings on both sides of the tow truck that display—

- (a) the name, business address and telephone number of the licence or towing permit holder; and
- (b) the classification of the tow truck; and
- (c) the licence or permit number of the tow truck.

(2) The markings must be clearly legible at a distance of 30 m.

SCHEDULE 1 (continued)

(3) The markings may be on the tow truck or on signs attached to the tow truck if the markings or signs are not likely to—

- (a) make the use of the tow truck unsafe; or
- (b) cause injury, annoyance or distraction to any person.

(4) Any markings placed on the tow truck in addition to that required under subsection (1) or permitted by subsection (6), must—

- (a) comply with the size stated in subsection (1); and
- (b) be displayed so as not to assume greater significance than the markings required by subsection (1).

(5) Any markings placed on the tow truck, other than words, including abbreviations of words, figures and punctuation marks must not be more than 1 000 square cm in area.

(6) A tow truck may be equipped with 1 illuminated sign if the sign—

- (a) is fitted with a fixed incandescent bulb of constant intensity; and
- (b) has a total illuminated surface area that is not more than 3 000 square cm.

SCHEDULE 2

FEES

section 64

	\$
1. Application for—	
(a) a licence or licence renewal, for each tow truck	232.00
(b) a permit to tow motor vehicles, for each 3 months or part of 3 months	67.00
(c) a driver’s certificate or driver’s certificate renewal . . .	29.00
(d) an assistant’s certificate or assistant’s certificate renewal	29.00
(e) a driver’s permit, for each 3 months or part of 3 months	12.00
(f) an assistant’s permit, for each 3 months or part of 3 months	12.00
(g) a duplicate licence or permit	29.00
(h) a duplicate driver’s or assistant’s certificate or permit	12.00

SCHEDULE 3**MAXIMUM TOWING CHARGES**

section 54

1. For the first 50 km—\$182;
2. For each kilometre over 50 km—\$3.70.

SCHEDULE 4**TOW TRUCK REGULATED AREAS**

section 62

1. The shires of—

Albert

Beaudesert

Boonah

Caboolture

Esk

Gatton

Kilcoy

Laidley

Maroochy

Moreton

Noosa

Pine Rivers

Pioneer

Redland.

2. The cities—

Brisbane

Bundaberg

Cairns

Caloundra

SCHEDULE 4 (continued)

Gold Coast

Hervey Bay

Ipswich

Logan

Mackay

Maryborough

Redcliffe

Rockhampton

Toowoomba.

3. The areas made up of the parishes of—

- (a) Clement and Hinchinbrook in the county of Gray; and
- (b) Beor, Bohle, Coonambelah, Ettrick, Halifax, Hervey, Lansdowne, Margenta, Magnetic, Rokeby, Ross, Stuart and Wyoming in the county of Elphinstone.

SCHEDULE 5**DICTIONARY**

section 3

“applicant” for part 2, division 1, see section 6.

“approval” means—

- (a) a licence, certificate or permit; or
- (b) an application for the renewal of a licence, certificate or permit.

“assistant” means a person, other than the driver, employed on or about a tow truck being used or to be used for the towing of a motor vehicle.

“business hours” means the time between 9.00 am to 5.00 pm Monday to Friday, excluding public holidays.

“certificate” means—

- (a) a driver’s certificate; or
- (b) an assistant’s certificate.

“commissioner” means the commissioner of the police service.

“conforming premises” means premises consisting of an area at ground level that—

- (a) comply with the requirements of the *Local Government Act 1993*;
- (b) are enclosed by a fence or wall that—
 - (i) is structurally sound; and
 - (ii) is not less than 2.1 m in height from the ground; and
 - (iii) has lockable gates or doors that are closed and securely locked except when a motor vehicle is being moved into or out of the area; or

SCHEDULE 5 (continued)

- (c) if the premises do not comply with paragraph (b)—in the opinion of the chief executive have another security barrier that is sufficient to prevent the entry of unauthorised persons into the area and the unauthorised removal of motor vehicles or property from the area.

“convicted” includes being found guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“damaged” for an approval or towing authority, includes defaced, mutilated or made illegible.

“disqualifying offence” see *Transport Operations (Road Use Management) Act 1995*, section 5.

“dolly wheels” means equipment consisting of 2 axles fitted with either single wheels or dual wheels on which the wheels of either the front or rear axles of a motor vehicle are mounted to support the part of the motor vehicle being towed.

“driver’s licence” see *Traffic Act 1949*, section 9.

“gross combination mass” means the mass specified for a motor vehicle by its manufacturer as being the maximum of the sum of the loaded mass of the motor vehicle plus the axle mass of the motor vehicle being towed as a semitrailer or trailer.

“holding yard” means a conforming premises owned or leased solely by the holder of a licence and used, or to be used, by the holder for the storage of—

- (a) a motor vehicle towed under the licence; and
- (b) any moveable property found in the motor vehicle.

“load capacity” means the difference between the total mass of a motor vehicle and its tare mass as stated on the certificate of registration.

“loaded mass” of a vehicle means the vehicle’s mass together with the mass of the vehicle’s load that is transmitted to the ground.

“miscellaneous permit” means a permit issued under section 19 of the Act.

SCHEDULE 5 (continued)

“motor cycle” means a motor vehicle with 2 wheels, and includes—

- (a) a 2 wheeled motor vehicle with a side car attached to it that is supported by a third wheel; or
- (b) a motor vehicle with 3 wheels that is ridden in the same way as a motor vehicle with 2 wheels.

“owner” of a motor vehicle includes—

- (a) a joint owner or a part owner of the vehicle; and
- (b) for a motor vehicle registered under the *Transport Infrastructure (Roads) Regulation 1991* or under corresponding legislation of another State—every person registered as owner;
- (c) for a motor vehicle the subject of a hiring agreement or a hire purchase agreement or a leasing agreement, the person who has the use of the vehicle as hirer or lessee under the agreement; and
- (d) a person who is authorised to have and has control, charge or management of the vehicle.

“place of business” means premises from which a tow truck operator conducts a business under a licence or towing permit.

“reasonably believes” means believes on reasonable grounds.

“scene of an incident” means the area within a radius of 500 m from the approximate point of impact or collision.

“tare” means the mass of a motor vehicle equipped for travelling on a road, but not including a load.

“towing permit” means a permit issued under section 11 of the Act.

“tray tow truck or platform tow truck” means a tow truck to which a fixed or tilting platform or tray is attached for the carriage of a motor vehicle and which is fitted with a winch for loading a motor vehicle onto the platform or tray.

ENDNOTES

1. Made by the Governor in Council on 24 June 1999.
2. Notified in the gazette on 25 June 1999.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.