



New South Wales

Tow Truck Industry Regulation 2019

under the

Tow Truck Industry Act 1998

[The following enacting formula will be included if the Regulation is made:]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Tow Truck Industry Act 1998*.

Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes, the *Tow Truck Industry Regulation 2008* which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters—

- (a) further particulars that are to be included in an application for a tow truck operators licence (a **licence**) and in an application for a tow truck drivers certificate (a **drivers certificate**),
- (b) the payment of application fees for licences and drivers certificates,
- (c) the prescribed offences that disqualify an applicant from holding a licence or drivers certificate for a period of 10 years from the date the applicant was convicted or found guilty of the offence,
- (d) further grounds on which an application for a licence or drivers certificate may be refused,
- (e) further licence and drivers certificate conditions,
- (f) an exemption from holding “on-hook” liability insurance in respect of tow trucks used solely for towing vehicles for wrecking purposes,
- (g) other miscellaneous matters relating to licences and drivers certificates, including the variation of conditions, and pending applications,
- (h) the manner in which towing authorisations are to be completed, signed and dealt with,
- (i) additional licence conditions and requirements in relation to holding yards,
- (j) other miscellaneous offences, including offences relating to misuse of licences and drivers certificates, the inspection of tow trucks, conduct of the tow truck drivers, record-keeping, quotations and invoices,
- (k) the offences that are prescribed so that they may be dealt with by way of penalty notice and the penalty payable when dealt with in that manner,

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- (1) certain other miscellaneous matters, including exemptions for interstate tow trucks, tow truck drivers and operators.

This Regulation is made under the *Tow Truck Industry Act 1998*, including section 105 (the general regulation-making power).

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under the

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Part 1 Preliminary

1 Name of Regulation

(cf 2008 Reg, cl 1)

This Regulation is the *Tow Truck Industry Regulation 2019*.

2 Commencement

(cf 2008 Reg, cl 2)

This Regulation commences on 1 December 2019 and is required to be published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Tow Truck Industry Regulation 2008*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(cf 2008 Reg, cl 3)

(1) In this Regulation—

exemption authority means an exemption authority granted under clause 30.

fee unit—see clause 2 of Schedule 2.

owner of a motor vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport Act 2013*.

protective clothing policy means the document titled *Tow Truck Industry Protective Clothing Policy* made available on a publicly available website maintained by the Department, as in force from time to time.

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

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “tow” and “tow truck”

(cf 2008 Reg, cl 4)

(1) In accordance with paragraph (e) of the definition of **tow** in section 3(1) of the Act, **tow** includes tow by use of a rigid frame, rigid bar or similar device.

(2) In accordance with section 4(2) of the Act, car carriers are declared not to be **tow trucks** for the purposes of the Act.

(3) In subclause (2)—

car carrier means a motor vehicle combination (including a multi-deck combination) that is designed or adapted for use for the transport of motor vehicles, being a combination—

- (a) that is not equipped or fitted with any lifting equipment (whether portable or fixed) for the purpose of loading the motor vehicles to be transported onto a car deck, and
- (b) onto which the motor vehicles to be transported are loaded by travelling along a ramp under their own propulsion, and
- (c) in the case of a multi-deck combination, may be equipped or fitted with equipment designed only for the purpose of raising and lowering the car decks.

Part 2 Licences and drivers certificates

Division 1 Provisions relating to licences

5 Particulars to be included in licence applications

(cf 2008 Reg, cl 5)

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

- (a) if the applicant is an individual—
 - (i) the applicant's name (including any aliases by which the applicant is or was known),
 - (ii) the applicant's current residential address,
 - (iii) the applicant's date of birth,
- (b) if the applicant is a corporation—
 - (i) the name of the corporation,
 - (ii) the name of each director of the corporation (including any aliases by which the director is or was known),
 - (iii) the current residential address of each director of the corporation,
 - (iv) the address of the registered office of the corporation (if different from the applicant's place of business),
 - (v) the certificate of incorporation for the corporation,
- (c) if the applicant's business is to be carried on in partnership—
 - (i) the name of the partnership,
 - (ii) the name of each partner (including any aliases by which the partner is or was known),
 - (iii) the current residential address of each partner,
 - (iv) the date of birth of each partner,
- (d) if the business has a trading name—
 - (i) details of the trading name,
 - (ii) evidence that the trading name has been registered as a registered business name,
- (e) in relation to each person who is employed or engaged by the applicant to drive, use or operate tow trucks as part of the applicant's business—
 - (i) the person's name (including any aliases by which the person is or was known),
 - (ii) the person's current residential address,
 - (iii) the person's date of birth,
- (f) in relation to each close associate of the applicant—
 - (i) the close associate's name (including any aliases by which the close associate is or was known),
 - (ii) the close associate's current residential address,
 - (iii) the close associate's date of birth,
- (g) if the applicant specifies a place to be used as a holding yard in carrying on the applicant's business, proof that the applicant—
 - (i) owns, or is the lessee of, the place, and
 - (ii) has obtained any necessary approval for the use of the place as a holding yard,

- (h) proof that the applicant holds—
 - (i) public liability insurance, and
 - (ii) unless exempt under clause 12 from the requirement to hold “on-hook” insurance—“on-hook” insurance,
- (i) particulars as to whether or not the applicant has been convicted of an offence prescribed by clause 7.

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

6 Licence application fee

(cf 2008 Reg, cl 6)

- (1) The Secretary may refuse to determine an application for a licence until the licence application fee is paid.
- (2) If the application is made in respect of a business carried on in partnership, a single licence application fee is payable.
- (3) A licence application fee is non-refundable.
- (4) In this clause—
licence application fee means the fee referred to in section 17(2)(h) of the Act.

7 Offences that disqualify applicants for licences

(cf 2008 Reg, cl 7)

- (1) For the purposes of section 18(2)(b) and (3)(i) of the Act, the following offences are prescribed (regardless of whether the offence was committed in New South Wales)—
 - (a) an offence involving an assault of any kind against a person,
 - (b) an offence relating to the possession or use of a firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or other weapon,
 - (c) an offence involving the supply or possession of a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (d) an offence involving the cultivation (for a commercial purpose), supply or possession of a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (e) an offence involving fraud, dishonesty or stealing,
 - (f) an offence relating to organised car or boat rebirthing activities under section 154G of the *Crimes Act 1900*,
 - (g) an offence of dealing with property suspected of being proceeds of crime under section 193C of the *Crimes Act 1900*,
 - (h) an offence involving robbery (whether armed or otherwise),
 - (i) an offence involving the recruitment of another person to carry out or assist in carrying out a criminal activity within the meaning of section 351A of the *Crimes Act 1900*,
 - (j) an offence involving participation in a criminal group or participation in any criminal activity of a criminal group within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*,
 - (k) the offence of habitually consorting with convicted offenders under section 93X of the *Crimes Act 1900*,
 - (l) the offence of contravening a serious crime prevention order under section 8 of the *Crimes (Serious Crime Prevention Orders) Act 2016*,

- (m) the offence of contravening a public safety order under section 87ZA of the *Law Enforcement (Powers and Responsibilities) Act 2002*,
 - (n) an offence under section 74 of the *Firearms Act 1996* relating to a firearms prohibition order.
- (2) However, an offence specified in subclause (1) is not prescribed if—
- (a) the application is—
 - (i) for a subsequent licence, and
 - (ii) made before, or within 10 days of, the expiry of the applicant’s licence, and
 - (b) the applicant, or a close associate of the applicant, was convicted of the offence—
 - (i) before 1 December 2006 (being the commencement date of the *Tow Truck Industry Amendment (Miscellaneous) Regulation 2006*), and
 - (ii) in respect of which the only penalty imposed was a direction under a community correction order that the offender perform community service work for 100 or more hours.

8 Qualifications of tow truck operators

(cf 2008 Reg, cl 8)

- (1) The Secretary may determine competency standards in relation to tow truck operators.
- (2) The standards may include levels of accreditation for tow truck drivers.
- (3) The Secretary may—
 - (a) develop the standards in consultation with the tow truck industry, or
 - (b) endorse standards prepared by another person or body.
- (4) If the Secretary determines competency standards, the Secretary must publish the standards in the Gazette.
- (5) For the purposes of section 18(3)(g) of the Act, any competency standards determined by the Secretary and published in the Gazette are prescribed.

9 Additional grounds for refusing licence application

(cf 2008 Reg, cl 9)

For the purposes of section 18(4) of the Act, the Secretary may refuse an application for a licence if—

- (a) a close associate of the applicant has, within the period of 10 years before the application for the licence was made—
 - (i) been refused a licence, or
 - (ii) had his or her licence permanently revoked, or
 - (iii) been the subject of disciplinary action under Division 4 of Part 3 of the Act that resulted in the close associate being disqualified from holding a licence or having his or her licence suspended or permanently revoked, or
- (b) the applicant or a close associate of the applicant is subject to—
 - (i) a firearms prohibition order under the *Firearms Act 1996*, or
 - (ii) a weapons prohibition order under the *Weapons Prohibition Act 1998*, or

- (iii) a serious crime prevention order under the *Crimes (Serious Crime Prevention Orders) Act 2016*, or
- (c) the applicant has not obtained a necessary approval for the use of a specified place as a holding yard in carrying on the applicant's business, or
- (d) the applicant has been subject to disciplinary action under Division 4 of Part 3 of the Act in relation to the requirements for holding yards under Part 4, or
- (e) the Secretary reasonably believes that information given in the licence application is false or misleading in a material particular.

10 Payment of licence fee

(cf 2008 Reg, cl 10)

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

11 Licence conditions

(cf 2008 Reg, cl 11)

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

- (a) the licensee must ensure that each driver complies with the protective clothing policy,
- (b) the licensee must keep a record of the registration details of each tow truck operated by the licensee,
- (c) except as provided by clause 92, the licensee may, under the authority of the licence, only operate the tow trucks that are specified in the licence,
- (d) the licensee must hold public liability and “on-hook” liability insurance.

12 Exemption from “on-hook” liability insurance requirement

(cf 2008 Reg, cl 12)

A licensee is exempt from the requirement, under clause 11(d), that the licensee holds “on-hook” liability insurance in respect of any tow truck that is used, or intended to be used, solely for towing motor vehicles for the purposes of metal recycling or vehicle demolishing or dismantling by a vehicle-wrecker.

13 Exemption from certain licence conditions for tow trucks registered interstate

(cf 2008 Reg, cl 13)

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

Division 2 Provisions relating to drivers certificates

14 Particulars to be included in drivers certificate applications

(cf 2008 Reg, cl 14)

For the purposes of section 25(2)(b) of the Act, the following particulars are prescribed—

- (a) the name of the applicant (including any aliases by which the applicant is or was known),
- (b) the applicant's current residential address,
- (c) the applicant's date of birth,
- (d) if applicable, the name and licence number of the applicant's current or prospective employer,
- (e) a recent colour photograph (as specified in the approved application form) of the applicant's head and shoulders only, that clearly shows the applicant's face,
- (f) particulars as to whether or not the applicant has been convicted of an offence prescribed by clause 16.

Note. Under section 25(2)(b) of the Act, an application for a drivers certificate must also contain such other particulars as are required by the approved application form.

15 Drivers certificate application fee

(cf 2008 Reg, cl 15)

- (1) The Secretary may refuse to determine an application for a drivers certificate until the drivers certificate application fee is paid.
- (2) A drivers certificate application fee is non-refundable.
- (3) In this clause—

drivers certificate application fee means the fee referred to in section 25(2)(c) of the Act.

16 Offences that disqualify applicants for drivers certificates

(cf 2008 Reg, cl 16)

- (1) For the purposes of section 26(2)(b) of the Act, the following offences are prescribed (regardless of whether the offence was committed in New South Wales)—
 - (a) an offence involving an assault of any kind against a person,
 - (b) an offence relating to the possession or use of a firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or other weapon,
 - (c) an offence involving the supply or possession of a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (d) an offence involving the cultivation (for a commercial purpose), supply or possession of a prohibited plant within the meaning of the *Drug Misuse and Trafficking Act 1985*,
 - (e) an offence involving fraud, dishonesty or stealing,
 - (f) an offence relating to organised car or boat rebirthing activities under section 154G of the *Crimes Act 1900*,
 - (g) an offence of dealing with property suspected of being proceeds of crime under section 193C of the *Crimes Act 1900*,
 - (h) an offence involving robbery (whether armed or otherwise),

- (i) an offence involving the recruitment of another person to carry out or assist in carrying out a criminal activity within the meaning of section 351A of the *Crimes Act 1900*,
 - (j) an offence involving participation in a criminal group or participation in any criminal activity of a criminal group within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*,
 - (k) the offence of habitually consorting with convicted offenders under section 93X of the *Crimes Act 1900*,
 - (l) the offence of contravening a serious crime prevention order under section 8 of the *Crimes (Serious Crime Prevention Orders) Act 2016*,
 - (m) the offence of contravening a public safety order under section 87ZA of the *Law Enforcement (Powers and Responsibilities) Act 2002*,
 - (n) an offence under section 74 of the *Firearms Act 1996* relating to a firearms prohibition order.
- (2) However, in the case of an applicant for a subsequent drivers certificate, an offence specified in subclause (1) is not prescribed if the applicant was convicted of the offence—
- (a) before 1 December 2006 (being the commencement date of the *Tow Truck Industry Amendment (Miscellaneous) Regulation 2006*), and
 - (b) in respect of which the only penalty imposed was a direction under a community correction order that the offender perform community service work for 100 or more hours.
- (3) In subclause (2)—
- applicant for a subsequent drivers certificate*** means a person who applies for a drivers certificate before, or within 10 days of, the expiry of the applicant's drivers certificate.

17 Qualifications of tow truck drivers

(cf 2008 Reg, cl 17)

- (1) The Secretary may determine competency standards in relation to tow truck drivers.
- (2) The standards may include levels of accreditation.
- (3) The Secretary may—
 - (a) develop the standards in consultation with the tow truck industry, or
 - (b) endorse standards prepared by another person or body.
- (4) If the Secretary determines any such competency standards, the Secretary must publish the standards in the Gazette.
- (5) For the purposes of section 26(3)(b) of the Act, any competency standards determined by the Secretary and published in the Gazette are prescribed.

18 Additional mandatory grounds for refusing drivers certificate application

(cf 2008 Reg, cl 18)

- (1) For the purposes of section 26(4) of the Act, the grounds on which the Secretary must refuse an application for a drivers certificate include any case in which—
 - (a) the applicant has been disqualified from holding a driver licence, or
 - (b) the applicant's driver licence has been suspended or cancelled (other than for fine default under the *Fines Act 1996*),

on more than one occasion during the period of 3 years immediately before the application was made.

- (2) For the purposes of subclause (1), it does not matter that any of the periods of disqualification, suspension or cancellation occurred during only part of the 3-year period.
- (3) For the purposes of section 26(4) of the Act, an application must be refused if circumstances equivalent to the matters set out in subclause (1) have occurred under a law of another State or a Territory that makes provision with respect to driver licensing.

19 Particulars on drivers certificate

(cf 2008 Reg, cl 19)

For the purposes of section 28(2)(d) of the Act, a drivers certificate must contain the following particulars—

- (a) the expiry date of the certificate,
- (b) the driver licence number of the certified driver,
- (c) in the case of a duplicate drivers certificate issued under section 38 of the Act—an endorsement by including the letter “R” before the certificate number.

20 Conditions of drivers certificate

(cf 2008 Reg, cl 20)

For the purposes of section 29(2)(c) of the Act, the following conditions are prescribed—

- (a) the certified driver must comply with the protective clothing policy,
- (b) the certified driver must, before towing a motor vehicle, ensure that the type of tow truck intended to be used is suitable for towing that particular motor vehicle.

21 Payment of drivers certificate fee

(cf 2008 Reg, cl 21)

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

Division 3 General provisions

22 Variation of licence or drivers certificate conditions

(cf 2008 Reg, cl 22)

If a licensee or certified driver applies for an amendment of the licence or drivers certificate in accordance with section 35 of the Act, the Secretary may charge the applicant a fee of 0.57 fee units in respect of the application.

23 Refund of fee if licence or drivers certificate voluntarily surrendered

(cf 2008 Reg, cl 23)

- (1) If a licensee or certified driver voluntarily surrenders the licence or drivers certificate in accordance with section 40 of the Act, the Secretary may refund part of the fee paid for the granting of the licence or drivers certificate.
- (2) The amount to be refunded is to be determined by the Secretary.
- (3) In determining the amount of any refund, the Secretary may retain an administration fee of 0.57 fee units.

24 Pending application for subsequent licence or drivers certificate

(cf 2008 Reg, cl 24)

- (1) This clause applies if—
 - (a) the holder of a licence or drivers certificate (*the current licence or drivers certificate*) applies for a subsequent licence or drivers certificate before the term of the current licence or drivers certificate expires, and
 - (b) the holder has paid the relevant application fee for the subsequent licence or drivers certificate, and
 - (c) the application has not been dealt with by the time the current licence or drivers certificate expires.
- (2) The authority conferred by the current licence or drivers certificate continues until the earlier of—
 - (a) the day that is 90 days after the expiry of the current licence or drivers certificate, or
 - (b) the day the person is notified of the granting or refusal of the subsequent licence or drivers certificate.

25 Requirement to notify the Secretary

(cf 2008 Reg, cl 25)

The holder of a licence or drivers certificate must notify the Secretary in writing, not more than 14 days after a change in—

- (a) the holder's residential address, or
- (b) the holder's postal address, or
- (c) the status of the holder's driver licence, or
- (d) information provided relating to a conviction or finding of guilt (with no conviction being recorded) in relation to an offence listed in clause 7(1) or 16(1).

Maximum penalty—20 penalty units.

Division 4 Exemption for persons who tow scrap metal

Subdivision 1 Exemption from requirement to hold a licence

26 Exemption from requirement to hold a licence

(cf 2008 Reg, cl 25A)

- (1) A person who carries on a business as a tow truck operator is exempt from the requirement under section 15 of the Act to hold a licence if—
 - (a) the person holds an exemption authority that is in force, and
 - (b) the person complies with the conditions of the exemption authority stated in subclause (2).

Note. A person who is exempt from the requirement under the Act to hold a licence because of this clause continues to be subject to the remainder of the Act.

- (2) An exemption authority is subject to the following conditions—
 - (a) tow trucks used in the business must only be used for towing work that is the collection of motor vehicles for conveyance to a scrap metal business registered under the *Scrap Metal Industry Act 2016* (that is, tow trucks must not be used in towing work that involves the collection of motor vehicles for conveyance to a facility for repair, reuse or resale, either in their original form or as parts), and

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- (b) a copy of the exemption authority must be carried at all times in each tow truck used in the business of the person who holds the exemption authority (*the business*),
- (c) the approved signs issued with the exemption authority, or at a later time, must be displayed on the front and rear of each tow truck used in the business in positions where the signs are visible to persons outside the tow truck when the tow truck is being used to load, tow or unload a motor vehicle,
- (d) the holder of the exemption authority must produce the exemption authority to an authorised officer or police officer on request whenever the holder is at the place of business specified in the exemption authority,
- (e) any tow truck used in the business must be one on which a crane is mounted,
- (f) any tow truck used in the business must not be a tilt table top tow truck,
- (g) a list of all drivers who drive a tow truck used in the business must be maintained at the place of business specified in the exemption authority,
- (h) the list of drivers must be made available to an authorised officer or police officer on request,
- (i) only a person who is listed on the list of drivers may drive a tow truck used in the business,
- (j) each driver who drives a tow truck used in the business must be informed of the conditions that the exemption authority is subject to,
- (k) the person who holds the exemption authority must notify the Secretary in writing of the following matters—
 - (i) any proposed change in the particulars specified in the exemption authority, at least 7 days before the proposed change occurs,
 - (ii) the name of any driver who, in addition to the drivers nominated in the application for an exemption authority, is proposed to drive a tow truck used in the business,
 - (iii) the registration number, make and model of any tow truck, in addition to any tow truck nominated in the application for an exemption authority, proposed to be used in the applicant's business,
- (l) a record (a *towing record*) of all motor vehicles transported on a tow truck used in the business must—
 - (i) be maintained at the place of business specified in the exemption authority, and
 - (ii) be made available to an authorised officer or a police officer on request,
- (m) the towing record of motor vehicles transported must include the following details in relation to each motor vehicle transported—
 - (i) the time and date on which the motor vehicle was transported,
 - (ii) details of where the motor vehicle was transported from and the destination of the tow,
 - (iii) the following identification details—
 - (A) the registration number of the motor vehicle, or
 - (B) if the vehicle does not have a registration number—the vehicle's VIN, or
 - (C) if the vehicle does not have a VIN—the chassis number or the engine number of the vehicle, or
 - (D) if the vehicle does not have a registration number, VIN, chassis number or engine number or the numbers are obscured—the make, model and colour of the vehicle,

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- (n) the towing record—
 - (i) must be in the approved form, and
 - (ii) must be completed as soon as practicable in relation to each occasion on which a tow truck is used or operated in the business to tow a motor vehicle,
 - (o) each record must be maintained at the place of business specified in the exemption authority for 5 years,
 - (p) the person who holds the exemption authority must not—
 - (i) forge or fraudulently alter an exemption authority (whether or not it is in force), or
 - (ii) give possession of an exemption authority to another person for the purpose of using it, or it being used, unlawfully, or
 - (iii) knowingly have possession of a forged or fraudulently altered exemption authority,
 - (q) the holder of the exemption authority must, within 7 days of becoming aware that the exemption authority has been lost, stolen, damaged, destroyed, altered or defaced—
 - (i) notify the Secretary in writing of that occurrence, and
 - (ii) in the case of a damaged, altered or defaced exemption authority—return it to the Secretary,
 - (r) the holder of the exemption authority must not in any way suggest or imply that the holder may, because of the exemption authority, exercise any function other than a function authorised by the exemption authority (and must not exercise a function authorised by the exemption authority otherwise than in accordance with this subclause),
 - (s) a driver who drives a tow truck used in the business must not—
 - (i) in any way suggest or imply that the driver may, because of the exemption authority, exercise any function apart from a function authorised by the exemption authority, or
 - (ii) exercise the function authorised by the exemption authority otherwise than in accordance with the conditions of the exemption authority,
 - (t) the holder of the exemption authority must not in any way use or attempt to use the exemption authority to exercise any function apart from a function authorised by the exemption authority,
 - (u) a driver who drives a tow truck used in the business must not in any way use or attempt to use the exemption authority to exercise any function apart from a function authorised by the exemption authority,
 - (v) any tow truck used in the business must be fitted with the following equipment—
 - (i) a flashing or rotating warning light that is maintained in good working order,
 - (ii) fully adjustable mounted lights maintained in good working order to enable the safe loading and unloading of motor vehicles onto or from the tow truck when it is dark,
 - (iii) equipment and tools to enable the efficient removal of accident debris,
 - (iv) a fire extinguisher that is maintained in a serviceable condition.
- (3) The holder of an exemption authority is guilty of an offence if a person contravenes a condition of the exemption authority.
Maximum penalty—25 penalty units.

- (4) A person who drives a tow truck used in the business of a person who holds an exemption authority is guilty of an offence if the driver contravenes a condition of the exemption authority specified in subclause (2)(c), (s) or (u).
Maximum penalty—25 penalty units.

Subdivision 2 Exemption from requirement to hold a drivers certificate

27 Exemption from requirement to hold a drivers certificate

(cf 2008 Reg, cl 25B)

- (1) A person who drives a tow truck in a tow truck business is exempt from the requirement under section 23 of the Act to hold a drivers certificate in relation to the business if the person—
- (a) is employed or engaged by a tow truck operator who holds an exemption authority in relation to the business, and
 - (b) is included on the list of drivers required to be maintained by clause 26(2)(g), and
 - (c) complies with the condition of the exemption stated in subclause (2).
- Note.** A person who is exempt from the requirement under the Act to hold a drivers certificate because of this clause continues to be subject to the remainder of the Act.
- (2) The exemption is subject to the condition that the person must produce a copy of the tow truck operator's exemption authority to an authorised officer or police officer on request of the officer whenever the person is—
- (a) driving or standing a tow truck on a road or road related area, or
 - (b) using or operating, or assisting in the use or operation of, a licensed tow truck on a road or road related area at any time, or
 - (c) carrying out, or attempting to obtain, any towing work.

Subdivision 3 Exemption authorities

28 Application for exemption authority

(cf 2008 Reg, cl 25C)

- (1) A tow truck operator may apply to the Secretary for an exemption authority if the only towing work that tow trucks used in the business engage in is the collection of motor vehicles for conveyance to a scrap metal business registered under the *Scrap Metal Industry Act 2016*.
- (2) An application for an exemption authority must be in the approved form and contain the following—
- (a) if the applicant is an individual—
 - (i) the applicant's name (including any aliases by which the applicant is or was known),
 - (ii) the applicant's current residential address,
 - (iii) the applicant's date of birth,
 - (b) if the applicant is a corporation—
 - (i) the name of the corporation,
 - (ii) the name of each director or manager involved in the business of the corporation (including any aliases by which the director or manager is or was known),
 - (iii) the address of the registered office of the corporation (if different from the applicant's place of business),

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- (iv) details of the incorporation of the corporation,
 - (c) if the applicant's business is carried on in partnership—
 - (i) the name of the partnership,
 - (ii) the name of each partner (including any aliases by which the partner is or was known),
 - (iii) the current residential address of each partner,
 - (iv) the date of birth of each partner,
 - (d) if the applicant's business has a trading name—
 - (i) details of the trading name, and
 - (ii) evidence that the trading name has been registered as a registered business name,
 - (e) the address of the applicant's place of business,
 - (f) particulars of the business the applicant carries on, or proposes to carry on,
 - (g) the registration number, make and model of each of the tow trucks to be operated in the course of the applicant's business,
 - (h) in relation to each person who is employed or engaged by the applicant to drive, use or operate tow trucks to tow motor vehicles as part of the applicant's business—
 - (i) the person's name (including any aliases by which the person is or was known), and
 - (ii) the driver licence number of the person's driver licence, and
 - (iii) the person's date of birth,
 - (i) in relation to each close associate of the applicant—
 - (i) the close associate's name (including any aliases by which the close associate is or was known), and
 - (ii) the close associate's date of birth,
 - (j) proof that the applicant holds public liability insurance for the applicant's business,
 - (k) any other particulars required by the approved application form.
- (3) The application must be accompanied by the application fee determined by the Secretary by order published in the Gazette.
- (4) For the purposes of this clause, a person is a **close associate** of an applicant for an exemption authority (whether or not that applicant is a corporation) if the person—
 - (a) holds or will hold any relevant financial interest, or exercises any relevant power (whether in the person's own right, or through an agent or on behalf of any other person), in the business of the applicant and, because of that interest or power, is or will be able (in the opinion of the Secretary) to exercise a significant influence over or with respect to the conduct of the business of the applicant, or
 - (b) holds or will hold any relevant position, whether in the person's own right, or through an agent or on behalf of any other person, in the business of the applicant.
- (5) In this clause—
relevant financial interest in relation to a business means—
 - (a) any share in the capital of the business, or
 - (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise.

relevant position means the position of director, manager, secretary or any other executive position, however those positions are designated.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in the day to day management of the business concerned, or
- (b) to participate in any directorial, managerial or executive decision, or
- (c) to elect or appoint any person to any relevant position.

29 Restrictions on granting exemption authority

(cf 2008 Reg, cl 25D)

The Secretary must refuse to grant an application for an exemption authority if—

- (a) the applicant will, in the opinion of the Secretary, be engaged in towing work that involves the collection of motor vehicles for conveyance to a facility for repair, reuse or resale, either in their original form or as parts, or
- (b) the applicant is not, in the opinion of the Secretary, a fit and proper person to hold an exemption authority or is otherwise not competent to engage in the collection of motor vehicles for conveyance to a scrap metal facility, or
- (c) the application is incomplete in a material particular, or
- (d) the application contains matter that is, in the opinion of the Secretary, false or misleading in a material particular, or
- (e) any tow truck to be operated in the course of the applicant's business does not have a crane mounted on it, or
- (f) any tow truck to be operated in the course of the applicant's business is a tilt table top tow truck.

30 Grant of exemption authority

(cf 2008 Reg, cl 25E)

- (1) The Secretary may determine an application for an exemption authority by granting an exemption authority or refusing the application.
- (2) An exemption authority must be in the approved form.
- (3) The Secretary, on granting an exemption authority, must issue 2 signs, in the approved form, for each tow truck nominated by the applicant pursuant to clause 28(2)(g).

31 Duration of exemption authority

(cf 2008 Reg, cl 25F)

An exemption authority continues in force for 2 years from the date on which it is granted or such shorter period as may be specified in the authority, unless it is sooner revoked under clause 32.

32 Revocation of exemption authority

(cf 2008 Reg, cl 25G)

The Secretary may revoke an exemption authority if the person who holds the authority or any person employed or engaged by the holder for the purposes of the holder's business—

- (a) has contravened any provision of the Act or this Regulation, or
- (b) has contravened any condition of the exemption authority specified in clause 26(2).

33 Proposed changes in particulars to be reflected in replacement exemption authority

(cf 2008 Reg, cl 25H)

If the Secretary has been notified of a change in the particulars specified in an exemption authority, the Secretary may approve the proposed change of particulars by amending the exemption authority and granting a replacement exemption authority.

34 Provision of signs for additional exempted tow truck

(cf 2008 Reg, cl 25I)

If the Secretary has been notified of a proposed additional tow truck to be used in the course of the business of the holder of an exemption authority, the Secretary may approve the additional tow truck and issue 2 signs, in the approved form, for each such tow truck.

35 Requirement to return exemption authority

(cf 2008 Reg, cl 25J)

If an exemption authority is revoked or has expired, the holder of the exemption authority must return the exemption authority, and all approved signs issued to the holder, to the Secretary within 14 days of the revocation or expiry.

Maximum penalty—15 penalty units.

36 Register of exemption authority holders

(cf 2008 Reg, cl 25K)

The Secretary must maintain a register of the persons who hold exemption authorities.

Part 3 Towing authorisations

37 Definition

(cf 2008 Reg, cl 26)

In this Part—

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

38 Exception from requirement to obtain towing authorisations for towing work

(cf 2008 Reg, cl 27)

In accordance with section 49(2)(b) of the Act, a person is not required to obtain a towing authorisation for towing work if—

- (a) an authorised officer has indicated to the person that a towing authorisation is not required for the towing work, and
- (b) the towing work is carried out in accordance with the directions of the authorised officer.

39 Requirement to leave accident scene once towing authorisations obtained

(cf 2008 Reg, cl 28)

If, in relation to an accident involving one or more motor vehicles, a person or persons have obtained towing authorisations for the towing of the motor vehicle or vehicles, any other person who has attended the scene of the accident for the purpose of obtaining towing work by the use of a tow truck but has not obtained a towing authorisation must not remain at the scene of the accident.

Maximum penalty—50 penalty units.

40 Persons who may give towing authorisations

(cf 2008 Reg, cl 29)

A towing authorisation for the towing of a motor vehicle by a tow truck may only be given by—

- (a) the owner or driver of the motor vehicle to be towed, or
- (b) a police officer, or
- (c) an authorised officer.

41 Completion of, and dealing with, towing authorisations

(cf 2008 Reg, cl 30)

For the purposes of section 51(4) of the Act, a person who obtains a towing authorisation must ensure—

- (a) the authorisation—
 - (i) is in writing in the approved form, and
 - (ii) is included in a towing authorisation book, and
 - (iii) is signed by the person and by the person giving the authorisation, and
 - (iv) specifies an address given by the person giving the authorisation as the address to which the motor vehicle is to be towed, and
 - (v) specifies an alternative address being the address of the licensee's holding yard where the motor vehicle will be towed to if the address specified under subparagraph (iv) is not accessible, and

- (vi) is otherwise completed (to the extent that is reasonably practicable in the circumstances) in the approved manner and by the insertion of the information required by the approved form, and
- (b) the original towing authorisation and 2 copies are completed, and
- (c) the towing authorisation used is the next available towing authorisation in order of serial number.

42 False information in towing authorisations

(cf 2008 Reg, cl 31)

- (1) A person must not record anything in a towing authorisation that the person knows to be false or misleading.
Maximum penalty—50 penalty units.
- (2) A person must not induce another person to sign a towing authorisation that the first person knows to be false or misleading.
Maximum penalty—50 penalty units.

43 Other requirements relating to towing authorisations

(cf 2008 Reg, cl 32)

- (1) A person who seeks to obtain a towing authorisation for the towing of a motor vehicle by a tow truck must—
 - (a) complete a written quotation for towing services form (in an approved form) in relation to the towing of the motor vehicle before obtaining the authorisation, and
 - (b) provide the quotation for towing services form to the person who is to give the authorisation, and
 - (c) explain to the person who is to give the authorisation that they have the following rights—
 - (i) to decide the address where the vehicle will be towed to,
 - (ii) to decide who will tow the vehicle,
 - (iii) to contact anyone before signing the written towing authorisation form for their assistance with deciding on the correct address to have the vehicle towed to,
 - (iv) to refuse to accept a tow for any reason,
 - (v) to receive a completed and signed copy of the written towing authorisation form that contains contact details for the tow truck operator who will be towing the vehicle and a completed quotation for towing and storage services.

Maximum penalty—25 penalty units.
- (2) A person who obtains a towing authorisation for the towing of a motor vehicle by a tow truck must—
 - (a) immediately provide a copy of the towing authorisation to the person giving the authorisation, and
 - (b) within 72 hours of completing the towing work to which the towing authorisation relates, deliver the original towing authorisation to the holder of the licence under which the tow truck is operated, and
 - (c) keep a copy of the towing authorisation in the towing authorisation book.

Maximum penalty—50 penalty units.

- (3) A person who obtains a towing authorisation must, before towing the motor vehicle by a tow truck, complete a notice (*the towing notice*) that is in the approved form and contains the following information—
- (a) the serial number of the towing authorisation to which the towing notice relates,
 - (b) the name of the licensee and the number of the licence under which the tow truck is authorised to be operated,
 - (c) the name, and drivers certificate number, of the person who obtained the towing authorisation,
 - (d) the registration number of the motor vehicle to which the towing authorisation relates,
 - (e) the address to which the motor vehicle is to be towed,
 - (f) if the motor vehicle is to be towed to a holding yard—the address of the holding yard.

Maximum penalty—50 penalty units.

- (4) The person who completes the towing notice must attach the notice to the motor vehicle in the approved way before towing the motor vehicle.

Maximum penalty—50 penalty units.

- (5) A person must not remove a towing notice attached to a motor vehicle in accordance with subclause (4) unless—

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

Maximum penalty—50 penalty units.

- (6) A person must not obtain, or attempt to obtain, a towing authorisation for the towing of a motor vehicle involved in an accident until any towing authorisation that the person has obtained for the towing of any other motor vehicle involved in the same accident has been completed in accordance with the particulars specified in that authorisation.

Maximum penalty—50 penalty units.

- (7) A licensee must ensure that each tow truck driver who is employed or engaged by the licensee complies with the requirements of this clause.

Maximum penalty—50 penalty units.

44 Towing authorisation books

(cf 2008 Reg, cl 33)

- (1) The Secretary may, on application by a licensee and on payment of the approved fee, issue the licensee with a towing authorisation book for each tow truck operating under the licence.

- (2) A licensee must provide a towing authorisation book to each certified driver carrying out towing work under the licence that requires a towing authorisation.

Maximum penalty—25 penalty units.

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

Maximum penalty—15 penalty units.

- (4) A certified driver must produce any towing authorisation book in the driver's possession for inspection on request by an authorised officer or police officer and allow the person to whom it is produced to take extracts from, or to make copies of, any entry in that book.
Maximum penalty—15 penalty units.
- (5) As soon as a certified driver completes a towing authorisation book, the driver must deliver the book to the licensee who gave it to the driver.
Maximum penalty—15 penalty units.

45 Keeping and production of towing authorisations

(cf 2008 Reg, cl 34)

- (1) A licensee must give the Secretary a copy of any towing authorisation received by a licensee within 28 days of the towing authorisation being completed.
Maximum penalty—10 penalty units.
- (2) A licensee must—
 - (a) keep, for at least 5 years, the following at the licensee's place of business as specified in the licence—
 - (i) the original of each completed towing authorisation that relates to a tow truck operated under the licence,
 - (ii) each towing authorisation book issued to the licensee, and
 - (b) immediately on request by an authorised officer or a police officer, produce for inspection—a towing authorisation or towing authorisation book kept by the licensee, or a copy of an authorisation to which the licensee has reasonable access, and
 - (c) allow for the purposes of evidence a person to whom a towing authorisation or towing authorisation book is produced—
 - (i) to take extracts from, or to make copies of, the authorisation or book, or
 - (ii) to remove the authorisation or book.

Maximum penalty—20 penalty units.
- (3) If a licence expires or is revoked or surrendered, the person to whom the licence was issued must return to the Secretary within 7 days of the expiration, revocation or surrender—
 - (a) any completed original towing authorisation that has been delivered to the person, and
 - (b) any towing authorisation books supplied to the person, and
 - (c) any towing notice that has not been completed.

Maximum penalty—20 penalty units.

Part 4 Holding yards

46 Security requirements

(cf 2008 Reg, cl 36)

- (1) Except as provided by subclause (2), a licensee must ensure that any holding yard of the licensee—
 - (a) is enclosed by a security fence that is not less than 2 metres high and that has gates with locks, and
 - (b) has flood lighting installed, and
 - (c) has a closed-circuit television system or a monitored security alarm system installed.

Maximum penalty—25 penalty units.

- (2) The Secretary may, by notice in writing, exempt a licensee from any requirement under subclause (1).
- (3) An exemption may be granted subject to the condition that the licensee comply with a requirement specified in the notice.
- (4) A licensee must ensure that the security fence enclosing a holding yard of the licensee is properly maintained and, if damaged, is repaired as soon as possible.
Maximum penalty—25 penalty units.

47 Access to holding yard

(cf 2008 Reg, cl 38)

It is a condition of a licence that any holding yard of the licensee is accessible at all times by each licensed tow truck operated by the licensee.

48 Holding yard register

(cf 2008 Reg, cl 39)

- (1) It is a condition of a licence that the licensee must keep a register (the ***holding yard register***) in the approved form and manner, and in accordance with this clause, in relation to a holding yard of the licensee.
- (2) The licensee must keep a separate holding yard register for each holding yard listed on a licence.
- (3) The following particulars are to be recorded in a holding yard register—
 - (a) the time and date on which each motor vehicle is towed into and out of the holding yard,
 - (b) the name of the tow truck driver who towed the motor vehicle to the holding yard,
 - (c) the name and contact details of the person who authorised the release of the motor vehicle from the holding yard,
 - (d) a copy of a written authorisation for the release of a motor vehicle from the holding yard,
 - (e) the particulars in paragraphs (a)–(d) that relate to the moving of a motor vehicle between approved holding yards of a licensee,
 - (f) the make, model, type and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the motor vehicle, or

- (ii) if the vehicle does not have a registration number—the vehicle’s VIN, or
 - (iii) if the vehicle does not have a VIN—the chassis number or the engine number (if any) of the vehicle,
 - (g) the serial number of the towing authorisation obtained in relation to the motor vehicle.
- (4) The licensee must update the holding yard register with the particulars under subclause (3) within 24 hours of each occasion on which a motor vehicle is towed into or out of the holding yard.

49 Certain operators not required to maintain a holding yard

(cf 2008 Reg, cl 40)

- (1) Nothing in the Act requires the following tow truck operators to maintain a holding yard—
 - (a) a tow truck operator who only operates tow trucks with a gross combination mass of 25 tonnes or more for the purpose of towing heavy motor vehicles (within the meaning of Part 5),
 - (b) a tow truck operator who operates tow trucks only for towing motor vehicles for the purposes of metal recycling or vehicle demolishing or dismantling by a vehicle-wrecker.
- (2) A person towing a heavy motor vehicle for a tow truck operator referred to in subclause (1)(a) is exempt from section 51(3) of the Act.

Part 5 Fees for towing, salvage, storage and related services

Note. This Part makes provision for the fees that may be charged for the towing, salvage or storage of a motor vehicle that has been involved in an accident or has been stolen. It does not apply to towing work involving motor vehicles that have broken down otherwise than as a result of an accident.

Division 1 Preliminary

50 Application

(cf 2008 Reg, cl 40A)

This Part applies to the charging of fees by a licensee or certified driver only for the towing, salvage or storage of a motor vehicle that has been involved in an accident or has been stolen.

51 Definitions

(cf 2008 Reg, cl 40B)

In this Part—

approved Class 3 conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 18 tonnes but no more than 25 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) cannot tow motor vehicles with a mass exceeding 12 tonnes.

approved Class 4 (A) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 25 tonnes but no more than 45 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and
- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

approved Class 4 (B) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 45 tonnes but no more than 60 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and
- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

approved Class 4 (C) conventional tow truck means a tow truck that—

- (a) has a gross combination mass of more than 60 tonnes, and
- (b) has lifting apparatus with a safe working load of 5 tonnes or more, and
- (c) can tow motor vehicles with a mass exceeding 12 tonnes, and
- (d) has a dual rear axle, and
- (e) has a power-operated winch, and

- (f) has air brakes that can be connected to the brakes of any motor vehicle being towed.

business day means any day other than a Saturday, a Sunday or a public holiday throughout New South Wales.

gross combination mass has the same meaning as in the *Road Transport Act 2013*.

gross vehicle mass has the same meaning as in the *Road Transport Act 2013*.

heavy motor vehicle means a motor vehicle that has a gross vehicle mass of more than 4.5 tonnes.

licensee's holding yard means a holding yard specified in the licence of a licensee.

light motor vehicle means a motor vehicle that is not a heavy motor vehicle.

Sydney metropolitan area means the local government areas of Bayside, City of Blacktown, City of Blue Mountains, Burwood, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby and Woollahra.

Division 2 **Maximum fees for towing work involving light motor vehicles**

52 **Maximum fees for accident towing work involving light motor vehicles**

(cf 2008 Reg, cl 40C)

The maximum fee that may be charged for any accident towing work (other than work referred to in clause 54) involving a light motor vehicle is—

- (a) 2.43 fee units, and
- (b) if the accident towing work occurs—
 - (i) entirely within the Sydney metropolitan area—an additional 0.0528 fee units for every kilometre in excess of 10 km travelled via the most direct route from the scene of the accident to the destination specified in the towing authorisation, or
 - (ii) partly or wholly outside the Sydney metropolitan area—an additional 0.0435 fee units for every kilometre in excess of 20 km travelled via the most direct route both in travelling from the licensee's place of business to the scene of an accident and then to the destination specified on the towing authorisation, and
- (c) if the accident towing work occurs—
 - (i) entirely within the Sydney metropolitan area and if any part of the accident towing work occurs outside the hours between 7 am and 7 pm on any business day, or on a day that is not a business day—an additional 25% of that part of the fee under paragraphs (a) and (b)(i) that relates to the accident towing work that occurred outside those hours, or
 - (ii) partly or wholly outside the Sydney metropolitan area and if any part of the accident towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(ii) that relates to the accident towing work that occurred outside those hours, and
- (d) if the accident towing work occurs partly or wholly outside the Sydney metropolitan area on a road with a speed limit of or above 80 kilometres per

- hour—an additional 0.6 fee units for each hour or part of an hour of work involved in cleaning glass or debris at the scene of the accident, and
- (e) any toll charges incurred during the towing work or travelling to the scene of the accident.

53 Maximum fees for recovery towing work involving light motor vehicles

(cf 2008 Reg, cl 40D)

The maximum fee that may be charged for any towing work that involves the recovery of a light motor vehicle has been stolen and that has not been involved in an accident is—

- (a) 1.60 fee units, and
- (b) if the towing work occurs—
- (i) entirely in the Sydney metropolitan area and involves travelling a distance of more than 10 km via the most direct route from the initial location of the motor vehicle to the destination specified by the vehicle owner—an additional 0.0528 fee units for every kilometre in excess of 10 km travelled via the most direct route, or
- (ii) partly or wholly outside the Sydney metropolitan area and involves travelling a distance of more than 20 km via the most direct route both in travelling from the licensee's place of business to the initial location of the motor vehicle and then to the destination specified by the vehicle owner—an additional 0.0435 fee units for every kilometre in excess of 20 km travelled via the most direct route, and
- (c) if the towing work occurs—
- (i) entirely in the Sydney metropolitan area and if any part of the towing work occurs outside the hours between 7 am and 7 pm on any business day, or on a day that is not a business day—an additional 25% of that part of the fee under paragraphs (a) and (b)(i) that relates to the towing work that occurred outside those hours, or
- (ii) partly or wholly outside the Sydney metropolitan area and if any part of the towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(ii) that relates to the towing work that occurred outside those hours, and
- (d) any toll charges incurred during the towing work or travelling to the location of the motor vehicle.

54 Maximum fees for subsequent tows of light motor vehicles

(cf 2008 Reg, cl 40E)

- (1) This clause applies if a light motor vehicle that has been involved in an accident or has been stolen is towed by a licensee or certified driver from a temporary location to which it had previously been towed by that licensee or certified driver for storage or repair to another place for storage or repair specified on the towing authorisation (a *subsequent tow*).
- (2) The maximum fee that may be charged for the subsequent tow is—
- (a) 0.88 fee units, and
- (b) if the subsequent tow occurs—
- (i) entirely in the Sydney metropolitan area and involves travelling a distance of more than 10 km via the most direct route from a temporary location where the motor vehicle has been stored to the destination specified on the towing authorisation—an additional 0.0528 fee units

- for every kilometre in excess of 10 km travelled via the most direct route, or
- (ii) partly or wholly outside the Sydney metropolitan area and involves travelling a distance of more than 20 km via the most direct route both in travelling from the licensee's place of business to a temporary location where the motor vehicle has been stored and then to the destination specified on the towing authorisation—an additional 0.0435 fee units for every kilometre in excess of 20 km travelled via the most direct route, and
 - (c) if the subsequent tow occurs—
 - (i) entirely in the Sydney metropolitan area and if any part of the subsequent towing work occurs outside the hours between 7 am and 7 pm on any business day, or on a day that is not a business day—an additional 25% of that part of the fee under paragraphs (a) and (b)(i) that relates to the towing work that occurred outside those hours, or
 - (ii) partly or wholly outside the Sydney metropolitan area and if any part of the subsequent towing work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day—an additional 20% of that part of the fee under paragraphs (a) and (b)(ii) that relates to the towing work that occurred outside those hours, and
 - (d) any toll charges incurred during the subsequent tow or while travelling to the location of the motor vehicle.
- (3) Despite subclause (2), if 2 or more light motor vehicles are carried simultaneously on a subsequent tow—
- (a) any fee for excess kilometres under subclause (2)(b) may only be charged to one motor vehicle, and
 - (b) any toll incurred may only be charged under subclause (2)(d) to one motor vehicle.

55 Fee must not be charged for complying with police directions

(cf 2008 Reg, cl 40F)

A fee must not be charged for towing work undertaken in accordance with any direction of a police officer or an authorised officer to move a light motor vehicle that is causing an unreasonable obstruction to traffic to the nearest place where it no longer causes an obstruction to traffic.

56 Fee must not be charged for time spent waiting

(cf 2008 Reg, cl 40G)

A separate fee must not be charged for any time spent waiting or standing at the scene of an accident or incident involving a light motor vehicle, including any time spent waiting for the permission of a police officer or emergency service personnel to remove a motor vehicle.

Division 3 Maximum fees for towing work involving heavy motor vehicles

57 Limitation on trucks that may charge for towing work involving heavy motor vehicles

(cf 2008 Reg, cl 40H)

A fee must not be charged for accident towing work involving a heavy motor vehicle, or towing work involving the recovery of a stolen heavy motor vehicle, unless—

- (a) the relevant tow truck is an approved Class 3 conventional tow truck, an approved Class 4 (A) conventional tow truck, an approved Class 4 (B) conventional tow truck or an approved Class 4 (C) conventional tow truck, and
- (b) the relevant tow truck does not exceed its gross combination mass when towing the heavy motor vehicle.

58 Maximum fees for accident towing work involving heavy motor vehicles

(cf 2008 Reg, cl 40l)

The maximum fee that may be charged for any accident towing work involving a heavy motor vehicle is—

- (a) the following amount for the first hour of accident towing work—
 - (i) 2.57 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 2.78 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 2.92 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 3.71 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (b) the following amount for every subsequent hour or part of an hour of accident towing work—
 - (i) 1.59 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 1.83 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 1.96 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 2.77 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (c) if a second certified driver is required to carry out the towing work—an additional 0.65 fee units for each hour or part of an hour that the second certified driver is involved in the towing work at the scene of the accident, and
- (d) an additional 0.65 fee units for each hour or part of an hour of administrative work involved in arranging the towing of the motor vehicle or the salvage of its load or freight, payable for only one driver for each accident, and
- (e) an additional 0.6 fee units for each hour or part of an hour of work involved in cleaning glass or debris at the scene of the accident, and
- (f) if any part of the work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day, an additional 50% of that part of the fee calculated under paragraphs (c) and (d) that relates to the work that occurred outside those hours, and
- (g) if any additional equipment is required to complete the accident towing work and that equipment has been arranged for and paid for by the licensee or certified driver, 110% of the cost of the use of that equipment, and
- (h) any toll charges incurred during the towing work or travelling to the scene of the accident.

59 Maximum fees for stolen motor vehicle recovery involving heavy motor vehicles

(cf 2008 Reg, cl 40J)

The maximum fee that may be charged for any towing work that involves the recovery of a heavy motor vehicle that has been stolen and has not been involved in an accident is—

- (a) the following amount for the first hour of towing work—
 - (i) 2.34 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 2.55 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 2.69 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 3.48 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (b) the following amount for every subsequent hour or part of an hour of towing work—
 - (i) 1.59 fee units, for work carried out by an approved Class 3 conventional tow truck,
 - (ii) 1.83 fee units, for work carried out by an approved Class 4 (A) conventional tow truck,
 - (iii) 1.96 fee units, for work carried out by an approved Class 4 (B) conventional tow truck,
 - (iv) 2.77 fee units, for work carried out by an approved Class 4 (C) conventional tow truck, and
- (c) if a second certified driver is required to carry out the towing work—an additional 0.65 fee units for each hour or part of an hour that the second certified driver is involved in the towing work at the location from which the motor vehicle is recovered, and
- (d) an additional 0.65 fee units for each hour or part of an hour of administration work involved in arranging the towing of the motor vehicle or the salvage of its load or freight, payable for only one driver for each motor vehicle recovered, and
- (e) if any part of the work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day, an additional 50% of that part of the fee calculated under paragraphs (c) and (d) that relates to the work that occurred outside those hours, and
- (f) if any additional equipment is required to complete the towing work, salvage or site recovery and that equipment has been arranged for and paid for by the licensee or certified driver, 110% of the cost of the use of that equipment, and
- (g) any toll charges incurred during the towing work or travelling to the location of the motor vehicle.

60 Stand by rate

(cf 2008 Reg, cl 40K)

The maximum fee that may be charged for standing by to do accident towing work involving a heavy motor vehicle, or towing work involving recovering a heavy motor vehicle that has been stolen and has not been involved in an accident, is—

- (a) in the case of an approved Class 3 conventional tow truck—
 - (i) 1.29 fee units for the first hour of standing by, and

- (ii) an additional 0.80 fee units for each subsequent hour or part of an hour of standing by, or
- (b) in the case of an approved Class 4 (A) conventional tow truck with a dual rear axle—
 - (i) 1.39 fee units for the first hour of standing by, and
 - (ii) an additional 0.9135 fee units for each subsequent hour or part of an hour of standing by, or
- (c) in the case of an approved Class 4 (B) conventional tow truck with a dual rear axle—
 - (i) 1.46 fee units for the first hour of standing by, and
 - (ii) an additional 0.98 fee units for each subsequent hour or part of an hour of standing by, or
- (d) in the case of an approved Class 4 (C) conventional tow truck with a dual rear axle—
 - (i) 1.8526 fee units for the first hour of standing by, and
 - (ii) an additional 1.383 fee units for each subsequent hour or part of an hour of standing by.

Division 4 Maximum fees for certain salvage

61 Fees must not be charged for certain salvage

(cf 2008 Reg, cl 40M)

A fee must not be charged for the salvage of a light motor vehicle involved in an accident that is still at the scene of the accident if the salvage is from a road or road related area.

62 Maximum fees for certain salvage of light motor vehicles

(cf 2008 Reg, cl 40N)

- (1) The maximum fee that may be charged for the salvage of a light motor vehicle involved in an accident that is still at the scene of the accident and is not salvage from a road or road related area is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.62 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and
 - (c) if an assistant is required, 0.62 fee units for each hour or part of an hour that the assistant is actually involved in the salvage, and
 - (d) if one or more additional tow trucks are required in the salvage operation, the rate applicable in clause 52 may be charged for each tow truck, and
 - (e) if any part of the salvage work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day, an additional 20% of the part of the fee calculated under paragraphs (a)–(d) that relates to the work that occurred outside those hours.
- (2) The maximum fee that may be charged for the salvage of a light motor vehicle that has been stolen and has not been involved in an accident and is not salvage from a road or road related area is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.62 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and

- (c) if an assistant is required, 0.62 fee units for each hour or part of an hour that the assistant is actually involved in the salvage, and
- (d) if one or more additional tow trucks are required in the salvage operation, the rate applicable in clause 53 may be charged for each tow truck, and
- (e) if any part of the salvage work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day, an additional 20% of that part of the fee calculated under paragraphs (a)–(d) that relates to the work that occurred outside those hours.

63 Maximum fees for certain salvage of heavy motor vehicles

(cf 2008 Reg, cl 40O)

- (1) The maximum fee that may be charged for the salvage of a heavy motor vehicle involved in an accident that is still at the scene of the accident is—
 - (a) \$0 for the first 30 minutes, and
 - (b) 0.88 fee units for each hour or part of an hour that a certified driver is actually involved in the salvage, after the first 30 minutes, and
 - (c) an additional 0.65 fee units for each hour or part of an hour of site administration work involved in arranging the salvage of the motor vehicle or of its load or freight, payable for only one driver for each accident, and
 - (d) if any part of the salvage work or site administration work occurs outside the hours between 8 am and 5 pm on any business day, or on a day that is not a business day, an additional 50% of the part of the fee calculated under paragraphs (a)–(c) that relates to the work that occurred outside those hours, and
 - (e) if any additional equipment is required to complete the salvage and that equipment has been arranged for and paid for by the licensee or certified driver, 110% of the cost of the use of that equipment.
- (2) For the purposes of determining the time involved in the salvage of a heavy motor vehicle, any time using a tow truck is not to be counted.
- (3) Subclause (1) does not prevent a licensee from charging an additional amount for any time spent using oxy-acetylene equipment, an air bag or an air jack for the salvage of a heavy motor vehicle involved in an accident that is still at the scene of the accident.

64 Stand by rate for salvage of heavy motor vehicles

(cf 2008 Reg, cl 40P)

The maximum fee that may be charged for standing by to do salvage work involving a heavy motor vehicle is 0.44 fee units for labour only for each hour or part of an hour.

Division 5 Maximum fees for storage of motor vehicles

65 Storage fees only apply to storage in licensee's holding yard

(cf 2008 Reg, cl 40Q)

A fee must not be charged for the storage of a motor vehicle damaged as a result of an accident anywhere other than at the licensee's holding yard.

66 Storage time commences when motor vehicle is registered in holding yard register

(cf 2008 Reg, cl 40R)

For the purposes of determining how long a motor vehicle is stored, storage does not commence until the later of—

- (a) the time details of the motor vehicle are recorded in the holding yard register kept under clause 48, or
- (b) the time when the motor vehicle is towed into the holding yard.

67 Maximum storage fees for light motor vehicles

(cf 2008 Reg, cl 40T)

- (1) The maximum fee that may be charged for the storage of a light motor vehicle, other than a motorcycle, damaged as a result of an accident, or recovered after being stolen, and that is awaiting collection by the owner or insurer is—
 - (a) for storage within the Sydney metropolitan area—0.23 fee units, or
 - (b) for storage outside the Sydney metropolitan area—0.14 fee units, for each 24 hours, or part of 24 hours.
- (2) The maximum fee that may be charged for the storage of a motorcycle damaged as a result of an accident, or recovered after being stolen, and that is awaiting collection by the owner or insurer is—
 - (a) for storage within the Sydney metropolitan area—0.1225 fee units, or
 - (b) for storage outside the Sydney metropolitan area—0.07 fee units, for each 24 hours, or part of 24 hours.

68 Maximum storage fees for heavy motor vehicles

(cf 2008 Reg, cl 40U)

- (1) The maximum fee that may be charged for the storage for more than 72 hours of a heavy motor vehicle is 0.97 fee units for each 24 hours, or part of 24 hours, after the first 72 hours.
- (2) A fee must not be charged for the storage of a heavy motor vehicle that is awaiting repair at a smash repair business or is awaiting transfer to the holding yard of a smash repair business.

69 Fee must not be charged for relocation of a motor vehicle

(cf 2008 Reg, cl 40V)

A fee must not be charged for—

- (a) placing a motor vehicle in an easily accessible location in the licensee's holding yard or holding yards, or
- (b) any other relocation of a motor vehicle in the licensee's holding yard or holding yards, or
- (c) the removal of a motor vehicle from a licensee's holding yard or holding yards, or
- (d) the use of the licensee's own equipment to make a motor vehicle in the licensee's holding yard or holding yards accessible.

70 Sign must warn customers about storage fees

(cf 2008 Reg, cl 40W)

A licensee must display a clearly visible sign in the licensed operator's office and the licensee's holding yard advising of any ongoing fee for storage of motor vehicles damaged as a result of an accident, or recovered after being stolen, after the first 72 hours.

Maximum penalty—10 penalty units.

71 Procedure required before storage fees may be charged

(cf 2008 Reg, cl 40X)

A fee must not be charged for storage of a motor vehicle damaged as a result of an accident unless the licensee records the details of the motor vehicle in the holding yard register kept under clause 48 in chronological order at the time and on the date the vehicle is towed in or out of the licensee's holding yard.

72 Fee for access to motor vehicle outside business hours

(cf 2008 Reg, cl 40Y)

A licensee must not charge the owner of a motor vehicle a fee for providing access outside business hours to a motor vehicle stored at a holding yard unless the licensee has first notified the person of the fees to be charged.

Note. Section 20(2)(d1) of the Act makes it a condition of a licence that the licensee must allow the owner of any motor vehicle stored at any holding yard used by the licensee in the course of the licensee's business to have reasonable access to the motor vehicle, during business hours at no charge to the owner, to collect items from the motor vehicle.

Division 6 Other permissible fees

73 Maximum fees for travel time for accident towing work and stolen motor vehicle recovery involving heavy vehicles

(cf 2008 Reg, cl 40Z)

- (1) The same maximum hourly fee as the hourly fee set out in clause 58(a) and (b) may be charged for any time taken to travel from a licensee's place of business to the scene of an accident and then to the destination specified on the towing authorisation as may be charged for accident towing work involving a heavy motor vehicle, but only if that travel is via the most direct route.
- (2) The same maximum hourly fee as the hourly fee set out in clause 59(a) and (b) may be charged for any time taken to travel from a licensee's place of business to the initial location of a heavy motor vehicle and then to return to the licensee's place of business as may be charged for stolen heavy motor vehicle recovery, but only if that travel is via the most direct route.

74 Requirements before additional fees may be charged for related services

(cf 2008 Reg, cl 40ZA)

A fee must not be charged for any service related to towing, salvage or storage of a motor vehicle damaged as a result of an accident, or a recovered stolen motor vehicle, that is not a service for which a maximum amount is prescribed by Divisions 2–5, unless—

- (a) the licensee or certified driver provides the owner or driver of the motor vehicle with a written quotation setting out the fee for the service, and
- (b) the licensee or certified driver explains the fee to the owner or driver of the motor vehicle before the service for which the charge is to be made being provided, and
- (c) the related service involved the use of equipment owned by a person other than the licensee, or the provision of any service by a person other than the licensee, and the fee charged is not more than the licensee was required to pay for that equipment or service, and
- (d) the licensee separately identifies and itemises details of the related service in an invoice, and

- (e) the licensee ensures that the invoice is accompanied by records (including receipts, invoices, photographs or accounts) that support the charging of the fee, and
- (f) the licensee ensures that any invoice, receipt or accounts that support the charge are available on request to the owner of the motor vehicle, the driver of the motor vehicle or an insurer of the motor vehicle before or at the time of settlement of the invoice.

75 GST

(cf 2008 Reg, cl 40ZB)

- (1) A reference in this Part to the maximum fee that may be charged for towing work, salvage or storage does not include any GST payable in respect of the work, salvage or storage.
- (2) **GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

Division 7 Fees that are not permitted

76 Separate fee must not be charged for fuel

(cf 2008 Reg, cl 40ZC)

A separate fee must not be charged for fuel costs or for payment of any fuel levy.

77 Separate fee must not be charged for moving vehicles between holding yards

A separate fee must not be charged for moving a motor vehicle between approved holding yards of a licensee.

78 Services that must not be charged for separately

(cf 2008 Reg, cl 40ZD)

A separate fee must not be charged (in addition to the maximum fee this Part allows to be charged for towing work) for any of the following done in connection with towing work—

- (a) any work involved in cleaning glass or debris from the scene of an accident (except as provided by clauses 52(d) and 58(e)),
- (b) any work involved in cleaning a tow truck, including cleaning any fluid leaks or spills from a motor vehicle towed,
- (c) any work involved in disconnecting the battery of a motor vehicle towed,
- (d) the making of any phone calls, or the doing of any other act, required to secure towing work,
- (e) the taking or production of any photographs,
- (f) the preparation and sending of any documents relating to a tow (including invoices, towing authorisations and contact details),
- (g) work involving notifying the owner of the motor vehicle of applicable storage fees,
- (h) any other administration work,
- (i) transporting the owner of, or a passenger in, the motor vehicle involved in the relevant accident,
- (j) the salvage of the load of any motor vehicle involved in the relevant accident (except as provided by clauses 58(d), 59(d) and 63(1)(c)),
- (k) the storage of personal belongings,

- (l) the changing of tyres,
- (m) the provision or use of a fire extinguisher,
- (n) the provision or use of gloves,
- (o) any other activities required to undertake towing work,
- (p) any other work done as a result of a requirement imposed by the Act or this Regulation.

Division 8 Invoices

79 Photographs must be attached to certain invoices

(cf 2008 Reg, cl 40ZE)

- (1) It is a condition of a licence or drivers certificate that, if salvage work involving a light motor vehicle damaged as a result of an accident, or a recovered stolen motor vehicle, exceeds 30 minutes, the licensee or certified driver must attach to an invoice issued by the licensee or certified driver in relation to that work at least 2 photographs, each of which clearly and accurately—
 - (a) shows the scene of the accident or the position of the motor vehicle being salvaged before any towing work or salvage work commenced, and
 - (b) displays on the photograph the time and date on which each photograph was taken.

- (2) It is a condition of a licence or drivers certificate that if towing work or salvage work involving a heavy motor vehicle damaged as a result of an accident, or a recovered stolen heavy motor vehicle, is carried out, the licensee or certified driver must attach to an invoice issued by the licensee or certified driver in relation to that work at least 2 photographs, each of which clearly and accurately—
 - (a) shows the scene of the accident or the position of the heavy motor vehicle being salvaged before any towing work or salvage work has commenced, and
 - (b) displays on the photograph the time and date on which each photograph was taken.

Part 6 Other offences and requirements

80 Offence to incite or encourage commission of offence

(cf 2008 Reg, cl 41)

A person must not—

- (a) incite or encourage any other person to commit an offence under the Act or this Regulation, or
- (b) offer any inducement to another person that is likely to result in the other person committing an offence under the Act or this Regulation.

Maximum penalty—50 penalty units.

81 Misuse of licences and drivers certificates

(cf 2008 Reg, cl 42)

A person must not—

- (a) forge or fraudulently alter a licence or drivers certificate (whether or not the licence or drivers certificate is in force), or
- (b) give possession of a licence or drivers certificate to another person for the purpose of using the licence or drivers certificate unlawfully, or
- (c) steal a licence or drivers certificate, or
- (d) knowingly have possession of a forged, fraudulently altered, borrowed or stolen licence or drivers certificate.

Maximum penalty—50 penalty units.

82 Lost or stolen licences and drivers certificates

(cf 2008 Reg, cl 43)

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

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

Maximum penalty (paragraph (a))—10 penalty units.

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

83 Tow truck equipment

(cf 2008 Reg, cl 44)

- (1) It is a condition of a licence that each tow truck operated under the authority of the licence must be fitted with the following equipment—
 - (a) a flashing or rotating warning light that is maintained in good working order,
 - (b) fully adjustable mounted lights maintained in good working order to enable the safe loading and unloading of motor vehicles onto or from the tow truck when it is dark.
- (2) It is a condition of a licence that each tow truck operated under the authority of the licence to do accident towing must be equipped with—
 - (a) equipment and tools to enable the efficient removal of accident debris, and
 - (b) a fire extinguisher that is maintained in a serviceable condition.

84 Inspection of tow trucks

(cf 2008 Reg, cl 46)

- (1) The Secretary or an authorised officer may, by notice in writing given to a tow truck operator (an *inspection notice*), require the tow truck operator to produce a specified tow truck under the operator's control for inspection by a person authorised by the Secretary.
- (2) The tow truck operator must comply with the requirement.
Maximum penalty—20 penalty units.
- (3) An inspection notice must—
 - (a) specify the time and place for the inspection of the tow truck, and
 - (b) allow at least 24 hours from the time the notice is given for the tow truck operator to comply with the requirement.
- (4) The person authorised by the Secretary to carry out the inspection of the tow truck is, following the inspection, to provide the tow truck operator with an assessment notice.
- (5) The assessment notice may—
 - (a) require the carrying out of such repairs or modifications as are specified in the notice, and
 - (b) require those repairs or modifications to be completed within a specified period.
- (6) The tow truck operator must comply with any such requirement.
Maximum penalty—20 penalty units.
- (7) The tow truck operator must provide the Secretary with the following—
 - (a) a copy of the assessment notice within 24 hours of receiving it from the person who carried out the inspection,
 - (b) within 24 hours of completing any repairs or modifications required by the assessment notice—a certificate, in the approved form, declaring that the repairs or modifications have been completed.
Maximum penalty—20 penalty units.
- (8) Any costs associated with the inspection of a tow truck under this clause, or with the carrying out of any repairs or modifications of a tow truck, are to be paid by the tow truck operator.

85 Tow truck number-plates to be visible while towing

(cf 2008 Reg, cl 47)

If any number-plate issued under section 57 of the Act in respect of a tow truck is likely to be obscured by a motor vehicle that is to be towed by the tow truck, the driver of the tow truck must ensure that the number-plate is—

- (a) displayed at the rear of the towed vehicle, or
- (b) displayed in another manner so that it remains clearly visible.

Maximum penalty—10 penalty units.

86 Conduct and duties

(cf 2008 Reg, cl 48)

- (1) This clause applies to the following persons—
 - (a) a certified driver,
 - (b) a licensee,

- (c) an operator holding an exemption authority under Division 4 of Part 2,
 - (d) a person employed by an operator holding an exemption authority under Division 4 of Part 2.
- (2) A person to whom this clause applies must—
- (a) behave in an orderly manner and with civility and propriety while—
 - (i) operating a tow truck, or
 - (ii) attending the scene of a motor vehicle accident, or
 - (iii) complying with a requirement under subclause (2)(b) or (c), or
 - (iv) at any other time in the conduct of towing work or towing operations, and
 - (b) comply with any reasonable requirement made of the person by an authorised officer or police officer in relation to the administration of the Act or this Regulation, and
 - (c) comply with any reasonable requirement made of the person by a member of staff of the Ambulance Service of NSW (within the meaning of section 67A of the *Health Services Act 1997*), or an emergency services officer (within the meaning of section 32A of the *State Emergency and Rescue Management Act 1989*), who is attending the scene of a motor vehicle accident.

Maximum penalty (in relation to a person referred to in subclause (1) (a)–(c))—50 penalty units.

- (3) In the case of certified drivers to whom this clause applies, the licensee holding the licence under which the tow truck is being operated must ensure that each tow truck driver whose services are being used by the licensee complies with subclause (2).
Maximum penalty—25 penalty units.

87 Licensee required to keep certain records of non-accident towing work

(cf 2008 Reg, cl 49)

- (1) A licensee must make a record of the following matters in relation to each occasion on which a licensed tow truck is used or operated by a relevant tow truck driver for any towing work other than accident towing work—
- (a) the time and date on which a motor vehicle is towed,
 - (b) details of where the motor vehicle is towed from and the destination of the tow,
 - (c) the make, model and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the motor vehicle, or
 - (ii) if the motor vehicle does not have a registration number—the vehicle’s VIN, or
 - (iii) if the motor vehicle does not have a VIN—the chassis number or the engine number (if any) of the vehicle,
 - (d) the name and contact details of the person who arranged for the motor vehicle to be towed,
 - (e) the name and contact details of any person who takes possession of the towed motor vehicle at the destination of the tow,
 - (f) details of any charges made by the licensee in relation to the tow.

Note. Section 60 of the Act also requires certain information to be recorded by a licensee on each occasion on which a licensed tow truck is used or operated by a tow truck driver for accident towing work.

- (2) Any such record must—

- (a) be in the approved form, and
 - (b) include particulars of the name and business address of the licensee, and
 - (c) be completed in the approved manner and as soon as practicable in relation to each occasion on which the licensed tow truck is used or operated.
- (3) The licensee must keep the record at the licensee's place of business for at least 5 years after the information is recorded.
- (4) If the licence is revoked or suspended or otherwise ceases to be in force, the licensee must give the Secretary any records kept in accordance with this section.
- (5) The licensee must, on request by an authorised officer or a police officer, give the officer the name and address of any tow truck driver whose services have been or are being used by the licensee.
- Maximum penalty (subclauses (1)–(5))—50 penalty units.
- (6) In this clause, *relevant tow truck driver* means a tow truck driver who is employed or engaged by the licensee or whose services are otherwise used by the licensee.

88 Records relating to charges

(cf 2008 Reg, cl 50)

- (1) It is a condition of a licence that a licensee must, in accordance with this clause, make and keep a fully itemised record of the charges made by the licensee in relation to each motor vehicle that is towed under the authority of the licence.
- (2) Each such record must provide details justifying the amounts charged in relation to the towing, salvage or storage concerned.
- (3) The licensee must—
- (a) keep a copy of the record at the licensee's place of business for at least 5 years after it is completed, and
 - (b) keep any document or material that justifies the charging of a particular amount, and
 - (c) produce any such record or related document for inspection by an authorised officer or a police officer if requested to do so, and
 - (d) permit the person to whom the record or related document is produced to make copies of, or take extracts from, the record or document or remove the record or document for the purposes of evidence.

Maximum penalty (subclause (3))—15 penalty units.

- (4) On expiry, cancellation or surrender of a licence, the former licensee must give to the Secretary any records or documents kept in accordance with this clause.

Maximum penalty (subclause (4))—50 penalty units.

89 Invoices

(cf 2008 Reg, cl 51)

- (1) A licensee, or a person acting on behalf of a licensee, must include the following in any invoice for towing work—
- (a) the name of the licensee as shown in the licensee's licence,
 - (b) the business name (if any) of the licensee and the relevant ABN,
 - (c) the name of the person to whom the invoice is issued,
 - (d) a description of the towing work to which the invoice relates,
 - (e) such fees (in itemised form) as are charged by the licensee in relation to the following—

- (i) any salvage relating to the relevant vehicle,
- (ii) the towing of the relevant vehicle,
- (iii) any storage of the relevant vehicle,

(f) any other fee charged by the licensee in relation to the vehicle, fully described and set out in itemised form.

Maximum penalty—10 penalty units.

- (2) A licensee must not request or require payment of a fee charged in relation to towing work unless a copy of the invoice for the work is given to the person to whom the invoice is issued.

Maximum penalty—10 penalty units.

- (3) A person must not include any matter that the person knows to be false or misleading in a material particular in an invoice for any towing work.

Maximum penalty—50 penalty units.

- (4) A licensee must—

- (a) keep at the licensee's place of business (as specified in the licence) a copy of each invoice issued by, or on behalf of, the licensee for a period of 5 years after the issue of the notice, and
- (b) on request by an authorised officer or a police officer within that period of 5 years, produce for inspection the copy of the invoice, and
- (c) allow the person to whom the copy is produced to take extracts from, or to make copies of, the invoice or to remove the invoice for the purposes of producing the extract, copy or notice as evidence in any proceedings.

Maximum penalty—20 penalty units.

90 Disposal of unclaimed motor vehicles

(cf 2008 Reg, cl 52)

- (1) This clause applies to any motor vehicle that—

- (a) has a value of less than \$3,000, and
- (b) has been towed to any holding yard of a licensee, and
- (c) is being held by the licensee.

- (2) If—

- (a) the motor vehicle has been held by the licensee for more than 14 days, and
- (b) applicable storage fees have not been paid, and
- (c) the owner or an agent of the owner has not contacted the licensee to arrange for the delivery, collection or continued storage of the motor vehicle,

the licensee may take action, in accordance with this clause, to sell or otherwise lawfully dispose of the vehicle.

- (3) The licensee must give the owner of the motor vehicle written notice of the licensee's intention to dispose of the motor vehicle.
- (4) However, the licensee is not required to notify the owner if the licensee is, after making all reasonable inquiries, unable to identify or locate the owner.
- (5) If the owner of the motor vehicle fails to arrange for the collection of the motor vehicle within 28 days of the notice being given to the owner, the licensee may dispose of the vehicle.
- (6) If the motor vehicle is sold and the owner of the vehicle subsequently makes a claim in respect of the vehicle, the licensee is to refund to the owner the difference (if any)

between the amount for which the vehicle was sold and the amount of money payable to the licensee by the owner in respect of the towing and storage of the vehicle (including all the costs incurred by the licensee in connection with this clause).

- (7) A licensee must not dispose of the motor vehicle unless the Commissioner of Police has issued the licensee with a certificate to the effect that the vehicle is not for the time being stolen.
- (8) A licensee is not liable for any damages arising out of the disposal of a motor vehicle to which this clause applies.
- (9) A licensee is not entitled to rely on this clause unless the licensee establishes that the motor vehicle disposed of had, at the time of disposal, a value of less than \$3,000.
- (10) A licensee who disposes of a motor vehicle under this clause must, within 7 days after the disposal, make a record that includes the following details—
 - (a) the date on which the motor vehicle was disposed of,
 - (b) the manner in which the motor vehicle was disposed of,
 - (c) if the motor vehicle was sold—
 - (i) the name and address of the person to whom the motor vehicle was sold, and
 - (ii) the amount for which it was sold,
 - (d) the make, model, type and colour of the motor vehicle, and the following identification details—
 - (i) the registration number of the vehicle,
 - (ii) the vehicle's VIN,
 - (iii) the chassis number (if any) of the vehicle,
 - (iv) the engine number (if any) of the vehicle.

Maximum penalty—10 penalty units.

- (11) A record made in accordance with subclause (10) must be kept for at least 5 years after it is made.
Maximum penalty—20 penalty units.

91 Prohibited tow trucks

(cf 2008 Reg, cl 53)

- (1) Subject to subclause (2), one-tonne tow trucks are prescribed as a class of prohibited tow truck for the purposes of section 56 of the Act.
- (2) A one-tonne tow truck operated under the authority of a licence is not a prohibited tow truck if the Secretary has approved its use and operation as a condition of the licence.
- (3) In this clause—

one-tonne tow truck means any tow truck that does not comply with the following requirements—

 - (a) a load capacity of at least 1.2 tonnes,
 - (b) a lifting apparatus with a safe working load of one tonne or more,
 - (c) capacity to tow vehicles that exceed 2 tonnes.

92 Stand-by tow trucks

(cf 2008 Reg, cl 54)

- (1) If a licensed tow truck is temporarily out of operation while undergoing repair or service, the licensee concerned may, with the approval of the Secretary, use and operate a tow truck not specified in the licence (a *stand-by tow truck*).
- (2) The licensee may apply to the Secretary for approval of the use and operation of the stand-by tow truck. The application must be made at least 72 hours (or another time approved by the Secretary) before the stand-by tow truck is used and operated in place of the licensed tow truck specified in the application.
- (3) The Secretary may approve the use and operation of a stand-by tow truck only if satisfied the following requirements will be complied with—
 - (a) the number-plate issued under section 57 of the Act to the licensed tow truck that is being replaced must be displayed on the stand-by tow truck,
 - (b) the stand-by tow truck must be registered within the meaning of the *Road Transport Act 2013* and display its registration number-plates,
 - (c) the stand-by tow truck must comply with the requirements of the Act and this Regulation, and with the conditions of the licence concerned, in relation to tow trucks,
 - (d) an approved sign must be displayed in the approved manner on the stand-by tow truck indicating that the tow truck is a stand-by tow truck.
- (4) A licensee who is using or operating a stand-by tow truck must—
 - (a) ensure that the requirements specified in subclause (3) are complied with, and
 - (b) maintain a record, in the approved form, of the use and operation of the stand-by tow truck and keep that record in the approved manner.Maximum penalty—20 penalty units.
- (5) A person must not hire, lease or supply a tow truck to a licensee for use and operation as a stand-by tow truck without the approval of the Secretary.
Maximum penalty—20 penalty units.
- (6) An approval to use and operate a stand-by tow truck may only be given if an application is made to the Secretary in the approved form and manner.
- (7) While a stand-by tow truck is being used and operated in place of a licensed tow truck in accordance with this clause, the stand-by tow truck is taken to be a licensed tow truck for the purposes of the Act and this Regulation.

Part 7 Miscellaneous provisions

93 Exemption relating to interstate tow truck drivers and operators

(cf 2008 Reg, cl 55)

- (1) A person who holds a licence, permit or other authority issued under the law of another State or Territory that authorises the person to drive or operate a tow truck in that State or Territory is exempt from the requirements under the Act to hold a licence or drivers certificate.
- (2) The exemption does not apply to or in respect of any towing work if the towing of the vehicle concerned starts in this State.
- (3) This clause does not affect any entitlement, under the *Mutual Recognition (New South Wales) Act 1992*, of a person who holds a licence, permit or other authority issued under the law of another State or Territory to drive or operate a tow truck (including in respect of the towing of a vehicle that starts in this State) without holding a licence or drivers certificate under the *Tow Truck Industry Act 1998*.

94 Exemption relating to towing of recreational vehicles

- (1) In accordance with section 4(2) of the Act, motor vehicles used or operated for the purposes of towing a recreational vehicle in the following circumstances are declared not to be tow trucks for the purposes of the Act—
 - (a) the recreational vehicle is being transported to or from a trade show within the State,
 - (b) the recreational vehicle is being transported from a supplier or manufacturer within the State or from another State or Territory,
 - (c) the recreational vehicle is being transported between the business premises of the company within the State or to premises in another State or Territory,
 - (d) the recreational vehicle is being towed to or from a specialist repairer.
- (2) For the purposes of this clause—
recreational vehicle includes motor homes, campervans, caravans, camper trailers and tent trailers.

95 Exemption from requirement to hold drivers certificate for mechanic in course of repairing a tow truck

- (1) For the purposes of section 6(3) of the Act, a licensed mechanic who drives a tow truck is exempt from the requirements relating to drivers certificates in the following circumstances—
 - (a) in the course of inspecting or assessing a tow truck to determine the nature and extent of repair work to be undertaken on the tow truck, or
 - (b) in the course of assessing a tow truck for safety purposes or roadworthiness, and
 - (c) where that inspection or assessment is performed within 5 kilometres of any licensed place of business of the motor vehicle repairer by whom the licensed mechanic is employed and with whom the agreement for repair work is in place.
- (2) The exemption is subject to the following conditions—
 - (a) the licensed mechanic must not perform an inspection or assessment at the scene of an accident,
 - (b) the licensed mechanic must produce their tradesperson's certificate to an authorised officer on request.

- (3) A licensed mechanic is guilty of an offence if the mechanic contravenes a condition of an exemption.
Maximum penalty (subclause (2)(a))—50 penalty units.
Maximum penalty (subclause (2)(b))—15 penalty units.
- (4) In this clause—
licensed mechanic means the holder of a relevant tradesperson’s certificate or another suitably qualified person as described in section 16(1) of the *Motor Dealers and Repairers Act 2013*.
motor vehicle has the meaning given by section 6 of the *Motor Dealers and Repairers Act 2013*.
repair work has the meaning given by section 6 of the *Motor Dealers and Repairers Act 2013*.

96 Exemption for medical reasons

- (1) For the purposes of section 6(3) of the Act, a certified driver is exempt from section 32 of the Act relating to the suspension of the certified driver’s driver licence if the driver licence of the certified driver is suspended (or otherwise ceases to be in force) under clause 65(1)(b) or (7) of the *Road Transport (Driver Licensing) Regulation 2017* in relation to illness, incapacity or a medical condition.
- (2) If subclause (1) applies—
- (a) the drivers certificate is suspended for the duration of the suspension of the driver licence, and
 - (b) the suspension of the drivers certificate ceases when the suspension of the driver licence ceases and the driver has been deemed medically fit to drive.

97 Exemption for expired driver licence

- (1) For the purposes of section 6(3) of the Act, a certified driver is exempt from section 32 of the Act relating to the expiry of their driver licence (as ascertained under clause 61 of the *Road Transport (Driver Licensing) Regulation 2017*).
- (2) If subclause (1) applies—
- (a) the drivers certificate is suspended from the expiry date until the licence is renewed under clause 63 of that Regulation, and
 - (b) the suspension of the drivers certificate ceases when the driver licence is renewed.

98 Repeal and savings

(cf 2008 Reg, cl 57)

- (1) The *Tow Truck Industry Regulation 2008* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Tow Truck Industry Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

For the purposes of section 89 of the Act—

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2
Offence	Penalty
Offences under the Act	
Section 15	\$2,200
Section 23	\$1,100
Section 37(1)	\$550
Section 49(1)	\$1,100
Section 49A(1)	\$440
Section 50(1)	\$1,100
Section 51	\$1,100
Section 53	\$1,100
Section 56(1)	\$2,200
Section 57(2)	\$550
Section 58	\$1,100
Section 59	\$1,100
Section 60	\$1,100
Section 61(1)	\$550
Section 61(2) or (3)	\$2,200
Section 62	\$1,100
Section 63(1)	\$1,100
Section 64	\$2,200
Section 65	\$250
Section 66(1)	\$1,100
Section 67	\$1,100
Section 68	\$1,100
Section 69	\$550
Section 70	\$550
Section 71	\$1,100
Section 72(1)	\$1,650
Section 72(2)	\$550
Section 73	\$550
Section 74	\$1,100

public consultation draft

Tow Truck Industry Regulation 2019 [NSW]
Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
Section 75	\$1,100
Offences under this Regulation	
Clause 25	\$440
Clause 26(3) or (4)	\$550
Clause 39	\$1,100
Clause 43(2), (3), (4), (5), (6) or (7)	\$1,100
Clause 44(2)	\$550
Clause 44(3), (4) or (5)	\$335
Clause 45(1)	\$220
Clause 45(2) or (3)	\$440
Clause 46(1) or (3)	\$550
Clause 70	\$220
Clause 81(c)	\$1,100
Clause 82(a)	\$220
Clause 82(b)	\$440
Clause 84(2), (6) or (7)	\$440
Clause 85(a) or (b)	\$220
Clause 86(2)	\$1,100
Clause 86(3)	\$550
Clause 87(1), (2), (3), (4) or (5)	\$1,100
Clause 88 (3)	\$335
Clause 88 (4)	\$1,100
Clause 89(1) or (2)	\$220
Clause 89(4)	\$440
Clause 90(10)	\$220
Clause 90(11)	\$440
Clause 92(4) or (5)	\$440
Clause 95(2)(a)	\$1,100
Clause 95(2)(b)	\$335

Schedule 2 Adjustment of fees for inflation

1 Definitions

In this Schedule—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

- (1) For the purposes of this Regulation, a **fee unit** is—
- (a) in the financial year 2019–20—\$103.41, and
 - (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 = \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- (2) The amount of a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- (3) However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

3 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded down).

4 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
- (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and
 - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Schedule.
- (2) This Schedule operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.