

Queensland



# TOW TRUCK ACT 1973

**Reprinted as in force on 7 December 1995  
(includes amendments up to Act No. 57 of 1995)**

**Reprint No. 2**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 7 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**



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# TOW TRUCK ACT 1973

[as amended by all amendments that commenced on or before 7 December 1995]

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

### PART 1—PRELIMINARY PROVISIONS

#### Short title

1. This Act may be cited as the *Tow Truck Act 1973*.

#### Commencement

2. This Act shall come into operation on a date appointed by proclamation.

#### Interpretation

- 4.(1) In this Act—

“**approved form**” see section 42A.<sup>1</sup>

“**articulated motor vehicle**” means a motor vehicle having at its rear a portion on wheels that is pivoted on and partly superimposed on the forward part of the vehicle.

“**assistant’s certificate**” means an assistant’s certificate issued under this Act and in force at any material time.

“**authorised officer**” means a police officer, an inspector under the *Motor Vehicles Safety Act 1980* or a person acting under the authority of the

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<sup>1</sup> Section 42A (Approval of forms)

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chief executive.

**“damaged”** means damaged in an incident.

**“driver’s certificate”** means a driver’s certificate issued under this Act and in force at any material time.

**“licence”** means a licence with respect to a tow truck issued under this Act and in force at any material time.

**“motor vehicle”** means a motor car, motorcycle, motor omnibus, motor truck, motor utility truck, trolley vehicle, tractor or traction engine, a trailer attached to or drawn by a motor vehicle, and any other vehicle propelled or designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power: the term includes an articulated motor vehicle but does not include a vehicle used on a railway or tramway.

**“operate”**, with respect to a tow truck, means to tow or offer to tow a motor vehicle by means of a tow truck, for hire or for any consideration or in the course of any trade or business.

**“permit”** means a permit issued under this Act and in force at any material time.

**“road”** has the meaning assigned to that term by the *Traffic Act 1949*.

**“tow”** with respect to a motor vehicle includes carry, lift and tow, lift and carry and lift for the purpose of towing.

**“towing authority”** means an authority given, on the approved form, for the towing of a motor vehicle.

**“tow truck”** means a motor vehicle—

- (a) equipped with a lifting or loading device capable of being used for the towing of a motor vehicle;
- (b) being used at the material time for the towing of a trailer on which a damaged motor vehicle is being carried.

**(1A)** Where in the definition **“motor vehicle”** there is used an expression that is not itself defined in this section and to which a meaning is assigned by the *Traffic Act 1949*, that expression has the meaning assigned to it by that Act; but if by a regulation made under this Act a meaning is assigned to such an expression either generally or for a particular purpose the

expression shall, for the purposes of the regulations, have the meaning so assigned by the regulation.

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

## **PART 2—LICENCES**

### **Requirement as to licence for tow truck**

5. Subject to this Act, after the expiration of 3 months from the date of commencement of this Act a person shall not personally, or by his or her servant or agent, operate a tow truck unless it is licensed and the person is the holder of the licence.

### **Application for licence**

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

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

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

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

- (a) the applicant is in all respects a fit and proper person to hold a licence; and

- (b) the motor vehicle or motor vehicles in respect of which the application is made and its or their equipment are suitable;

the chief executive may grant and issue to the applicant a licence.

### **Form and authority of licence**

7.(1) A licence—

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

(2) A licence shall not be issued or renewed unless the tow truck or tow trucks in respect of which the application is made is or are registered under the *Transport Infrastructure (Roads) Act 1991*.

### **Duration of licence**

8. Unless sooner cancelled, suspended or surrendered, a licence shall subsist for a period of 12 months from and including the date of its grant or, as the case may be, its last renewal, and for the purpose of calculating the period of its duration a licence shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

### **Renewal of licence**

9. Upon application for a renewal of a licence made in accordance with the regulations and 2 weeks prior to the expiration of the period of duration of the licence and upon payment of the prescribed fee, the chief executive shall renew the licence if the chief executive is satisfied that the provisions of this Act applicable thereto have been complied with and the holder thereof continues to be a fit and proper person to hold the licence.

### **Imposition of conditions of licence**

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

### **Permits to tow motor vehicles**

**11.(1)** The chief executive may upon application, payment of the prescribed fee and upon being satisfied as to the identity of the applicant for the permit issue a permit that authorises the holder thereof to tow motor vehicles by means of the tow truck specified therein pending the determination of an application for a licence.

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

- (b) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines;
- (c) may be revoked by the chief executive at any time;
- (d) may be issued subject to all or any of the conditions to which a licence may be subject and to such other conditions as are specified in the permit.

### **Conditions of licence**

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

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

- (a) that any tow truck to which the licence relates and its equipment comply with the provisions of any Act relating to the design, construction and serviceability of the tow truck or, as the case may be, its equipment;
- (b) that the provisions of any Act relating to limits of weight or speed

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that are applicable to any tow truck to which the licence relates are complied with;

- (c) that the provisions of any Act relating to the limitation of hours of driving are observed;
- (d) that the holder of the licence shall not operate any tow truck to which the licence relates unless it has been inspected as required by the *Motor Vehicles Safety Act 1980* and a current certificate of inspection issued under that Act exists in respect of it;
- (e) that a person shall not on a road tow a damaged motor vehicle (not being a motor vehicle that is owned by the holder of the licence) by means of any tow truck to which the licence relates unless the person has obtained the consent of the owner thereof, the owner's agent or an authorised officer to remove that motor vehicle and a duly signed towing authority relating to that motor vehicle dealt with as prescribed;
- (f) that a person shall not obtain or attempt to obtain a signature on a form of towing authority unless there has first been entered on that form the full address of the place to which the motor vehicle the subject of the towing authority will be towed and, where any business is carried on in that place, the name of the business;
- (g) that all reasonable precautions shall be taken by the holder of the licence and the driver of any tow truck to which the licence relates and any person employed thereon to prevent loss from, or damage to, a damaged motor vehicle while being towed by the tow truck and that those precautions shall be taken by the holder of the licence while the motor vehicle is otherwise under his or her control;
- (h) that the holder of a licence shall cause to be made an inventory of movable property (including any radio or sound production device) found to be in the damaged vehicle at the time of its arrival at the place referred to in paragraph (f) to which it has been towed and shall keep at the premises from which the holder of the licence conducts his or her business an inventory so made;
- (i) that a person shall not tow a damaged motor vehicle from the scene of an incident by means of any tow truck to which the licence relates to a place other than the place referred to in

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paragraph (f);

- (j) that where a motor vehicle has been towed to the place referred to in paragraph (f), a person shall not, except to return the motor vehicle to the registered owner thereof or the registered owner's agent authorised in writing, remove the motor vehicle to another place without the written authority of that owner or agent given after the motor vehicle has been towed to the place from which it is to be removed;
- (k) that where a damaged motor vehicle has been towed to a place where it is under the control of the holder of the licence, a person shall not refuse to deliver the motor vehicle to the registered owner thereof or the registered owner's agent duly authorised in writing on request by the owner or the owner's agent after payment of reasonable charges for the towing and storing of the motor vehicle, and where repair work has been authorised by the owner or the owner's agent, for that repair work, has been made or tendered;
- (l) that a person other than the holder of a driver's certificate or an assistant's certificate shall not accompany the driver of any tow truck to which the licence relates while the tow truck is proceeding to the scene of an incident or towing a damaged motor vehicle from the scene of an incident unless in either case the person was the owner or the owner's agent or the driver of or a passenger in that motor vehicle;
- (m) that a person shall not obtain or attempt to obtain at the scene of an incident authority for the towing of a damaged motor vehicle by means of any tow truck to which the licence relates unless the person is the driver of the tow truck having the authority express or implied of the holder of the licence, his or her servants or agents;
- (n) that the holder of the licence shall not, unless he or she is the holder of a driver's certificate obtain or attempt to obtain any authority referred to in paragraph (e);
- (o) that the driver of any tow truck to which the licence relates shall not (except to the extent necessary to connect the towing equipment of the tow truck to a damaged motor vehicle in respect

of which the driver has obtained a towing authority) permit the tow truck to stand upon a road so as to cause an obstruction or to stand at the scene of an incident for a period longer than that which would reasonably be required to obtain a towing authority in respect of a damaged motor vehicle for which no towing authority has been given;

- (p) that any tow truck to which the licence relates shall not be used to tow a damaged motor vehicle while any person is travelling as a passenger in the damaged motor vehicle;
- (q) that the holder of the licence and any person employed by the holder of the licence on or about any tow truck to which the licence relates shall comply with the provisions of the *Radiocommunications Act 1992* (Cwlth), and shall not permit or suffer any other person to contravene the provisions of that Act;
- (r) that the holder of the licence shall not charge a sum other than a reasonable sum for the towing, salvage or storage of a motor vehicle.

## PART 3—CERTIFICATES

### Requirement as to certificates

**13.** Subject to this Act, after the expiration of 3 months from the date of commencement of this Act a person—

- (a) shall not operate a tow truck unless the person is the holder of a driver's certificate issued to the person or a permit under section 19 that authorises the person to operate a tow truck;
- (b) shall not be employed on or about a tow truck at or near the scene of an incident unless the person is the holder of a driver's certificate or an assistant's certificate issued to the person or a permit under section 19;
- (c) shall not travel in a tow truck while it is proceeding to the scene of an incident unless the person is the holder of a driver's certificate or an assistant's certificate issued to the person or a permit under

section 19 or was the owner or the owner's agent or the driver of or a passenger in the damaged motor vehicle.

### **Application for driver's or assistant's certificate**

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

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

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

### **Form and authority of driver's or assistant's certificate**

**15.** A driver's certificate or an assistant's certificate—

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

### **Imposition of conditions on certificate**

**16.** The chief executive may upon the grant or renewal of a certificate under this part impose such conditions as the chief executive thinks fit, and if the chief executive does so shall particularise in or affix to the certificate

those conditions and may at any time and from time to time, by written notice to the holder of the certificate, vary the conditions to which a certificate is for the time being subject.

### **Duration and renewal of driver's or assistant's certificate**

**17.(1)** Unless sooner cancelled, suspended or surrendered a driver's certificate or an assistant's certificate shall subsist for a period of 12 months from and including the date of its grant or, as the case may be, its last renewal and for the purpose of calculating the period of its duration shall be deemed to have subsisted throughout any period for which it has in fact been suspended or is of no force or effect.

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

### **Driver's certificate dependent upon driver's licence**

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

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

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

### **Permit for applicant for driver's or assistant's certificate**

**19.(1)** The chief executive may, upon application and payment of the prescribed fee and upon the chief executive being satisfied as to the identity of the applicant for the permit, issue to that applicant a permit that authorises the holder thereof to operate or as the case requires be employed on or about

a tow truck pending the determination of an application for a driver's certificate or assistant's certificate.

(2) A permit issued under subsection (1)—

- (b) shall, subject to this Act, be in force for such period not exceeding 6 months as the chief executive determines;
- (c) may be revoked by the chief executive at any time;
- (d) may be issued subject to all or any of the conditions to which a driver's certificate or an assistant's certificate may be subject and to such other conditions as are specified in the permit.

## **PART 4—REGULATION OF LICENCES, CERTIFICATES AND PERMITS**

### **Records**

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

### **Cancellation or suspension of licences or certificates**

**21.(1)** The chief executive may cancel or suspend a licence, driver's certificate or an assistant's certificate if—

- (a) the licence or certificate was issued in error or granted in consequence of any false or fraudulent document, statement or representation; or
- (b) the holder of the licence or certificate is convicted of an offence against this Act; or
- (c) the holder of the licence or certificate fails to comply with or observe any condition thereof; or

- (d) the holder of the licence or certificate ceases to exercise or to be employed under the authority thereby conferred on him or her; or
- (e) the chief executive is of opinion that by reason of the manner in which the holder of the licence or certificate conducts himself or herself in the exercise of or his or her employment under the authority thereby conferred on the holder of the licence or certificate, or by reason of any other fact or circumstance the holder is not a fit and proper person to hold the licence or, as the case may be, the certificate.

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

## **PART 5—OFFENCES**

### **Authority to repair**

**22.** A person—

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

### **Consideration for obtaining certain information or work**

**23.(1)** A person—

- (a) shall not for the purpose of obtaining a towing authority or enabling any other person to obtain a towing authority, give or receive or agree to give or receive any valuable thing in

consideration of the furnishing of information or advice as to the occurrence of an incident or the presence of a damaged motor vehicle on a road; or

- (b) shall not give or agree or offer to give any valuable thing in consideration of the obtaining for himself or herself or any other person of the work of repairing a damaged motor vehicle; or
- (c) shall not receive or agree or offer to receive any valuable thing in consideration of the obtaining from any other person of the work of repairing a damaged motor vehicle.

(2) In this section—

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

### **False statements and representations, and coercion**

**24.** A person shall not—

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

### **Offences with respect to authorised officers**

**25.** A person shall not—

- (a) assault, resist or obstruct an authorised officer in the exercise of

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his or her powers or in the discharge of his or her duties under this Act, or attempt so to do; or

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

**Excess of authority**

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

**Execution against motor vehicle**

**27.(1)** Any warrant of execution for the amount of any penalty for an

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offence against section 5 or 26 may be executed by seizure and sale of the goods and chattels of the offender and, where the motor vehicle in respect of which the offence was committed is not the sole and absolute property of the offender, by seizure and sale of that motor vehicle as if it were the sole and absolute property of the offender.

**(1A)** Where the motor vehicle in respect of which the offence was committed comprised a trailer attached to a motor vehicle the warrant may be executed by seizure and sale of the trailer or the motor vehicle to which it was attached, or both of them.

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

**(2A)** So much of such proceeds as exceeds the amount ordered to be levied and the costs and charges of the execution shall be deemed to have come into the custody of the clerk of the court in connection with the proceedings in respect of the offence.

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

**(3A)** Notwithstanding the provisions of the *Justices Act 1886* a justice—

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

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

- (a) before the expiration of the time (if any) for payment of the penalty allowed by the justices adjudging the penalty as part of their decision; or

(b) after the offender has been imprisoned for default in paying the penalty.

(5) In this section—

“**penalty**” includes any costs or fees which the justices adjudging the penalty ordered, as part of their decision, to be paid.

## **PART 6—APPEALS**

### **Appeal from decision of chief executive**

**28.(1)** Where the chief executive—

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

the chief executive shall notify in writing the applicant or holder of the licence or certificate, as the case may be, of the chief executive’s decision and the grounds therefor.

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

### **Appeal tribunal**

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

- (a) a stipendiary magistrate who shall be chairperson of the tribunal;

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- (b) an officer of the department nominated by the chief executive;
- (c) a holder of a licence nominated by the Minister as prescribed;

and shall be deemed to be a commission of inquiry within the meaning of the *Commissions of Inquiry Act 1950* the provisions whereof shall apply accordingly.

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

- (a) shall be made by the Governor in Council by notification published in the gazette;
- (b) subject to paragraph (c), shall be effective for a period of 12 months commencing on the date of publication unless the appointment sooner becomes vacant as prescribed;
- (c) where it is made to fill a vacancy in the appointment of a member, shall be effective for the balance of the term of the appointment in which the vacancy occurred.

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

- (a) dies;
- (b) resigns the appointment by notice in writing given to the Minister;
- (c) ceases to be qualified as prescribed for appointment as a member;
- (d) is removed from the appointment by the Governor in Council as prescribed.

**(3A)** The Governor in Council may at any time by notice in writing given to the member in question remove a member of the appeal tribunal from the appointment if, in the Governor in Council's opinion, the member is not a fit and proper person to hold the appointment.

**(4)** The nomination by the Minister of a holder of a licence for appointment as a member of the appeal tribunal shall be made from a panel of names of 3 of those holders, at the least, furnished to the Minister by an association or group of holders that in the Minister's opinion is representative of the holders of licences in the State.

**(5)** If at the time an appointment of a holder of a licence is to be made, there is no panel or if the holders on a panel willing to accept nomination are

less than 3 in number, the Minister may in the Minister's discretion nominate any holder of a licence.

### **Secretary to appeal tribunal**

**30.** The chief executive shall assign an officer of the department (other than the officer thereof who is or is to be a member of the appeal tribunal) to act as secretary to the appeal tribunal.

### **Procedure on appeal**

**31.(1)** An appeal shall be instituted within 14 days after the date on which the appellant receives notice of the chief executive's decision whereby the appellant is aggrieved and no later, by lodging with the secretary a notice of appeal in writing and paying the prescribed fee (if any).

**(1A)** The grounds of the appeal shall be clearly and briefly set forth in the notice of appeal.

**(1B)** The appellant may at any time withdraw the appellant's appeal by notice in writing given to the secretary.

**(2)** When an appeal has been duly instituted the secretary shall arrange with the chairperson of the appeal tribunal a date, time and place for the hearing of the appeal and shall give at least 7 days notice thereof to the appellant and to the chief executive.

**(2A)** So far as is practicable an appeal shall be heard and determined within 1 month after the date on which it is instituted.

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

### **Venue and nature of appeal**

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

**(2)** The appeal tribunal may inform itself on any matter in such manner

as it deems fit and, subject to this Act, shall not be bound by rules of or practice as to evidence.

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

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

### **Determination of appeal**

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

### **Effect of appeal and of determination thereof**

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

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

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

## **PART 7—GENERAL PROVISIONS**

### **Production of licence, certificate or permit**

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

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

### **Evidentiary provisions**

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

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

### **Exemptions**

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

**Service of documents**

**39.** A notice or other document required by this Act to be given by the chief executive to any person may be given—

- (a) by serving it personally on the person to whom it is directed;
- (b) by leaving it at the address of the place of residence of the person to whom it is directed last known to the person by whom it is required to be given;
- (c) by prepaid post letter addressed to the person to whom it is directed at the address of the place of the person's residence last known to the person by whom it is required to be given.

**Offences generally and penalty**

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

**(2)** Where in relation to a condition of a licence referred to in section 12(2)(e)–(p) a person—

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

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

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

**(4)** A penalty imposed by this Act may be recovered by way of summary proceedings before a Magistrates Court constituted under the *Justices Act 1886*.

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

**Offences by body corporate**

**41.(1)** Where a body corporate commits an offence against this Act each

of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly—

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

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

### **Indemnity to persons administering Act**

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

### **Approval of forms**

42A. The chief executive may approve forms for use under this Act.

### **Regulation making power**

43.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may make provision about the following—

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

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holder thereof;

- (g) the duties and standard of conduct of persons operating tow trucks and of persons employed on or about tow trucks;
- (h) the inspection of tow trucks by an authorised officer for the purposes of determining whether or not they comply with this Act and the action to be taken if tow trucks do not so comply, and in connection with any inspection authorising the entry in or upon any tow truck, building or place;
- (i) the powers of an authorised officer to enter upon premises from which a tow truck operator conducts his or her business and to inspect, seize and make copies of those records, and the production of those records by any person having custody thereof upon the requisition of an authorised officer;
- (j) the production to authorised officers and other prescribed persons of licences, certificates, permits and other documents;
- (k) the fees payable under this Act and the purposes for which those fees are payable, and the fixing of those fees;
- (l) the design, classification, construction, equipment and identification of tow trucks;
- (m) the qualifications and ages of drivers of tow trucks;
- (n) the conditions under which tow trucks may be operated;
- (o) premises or places to which tow truck operators deliver or cause to be delivered motor vehicles towed by the tow truck they operate and the use of those premises or places by those operators and the towing of motor vehicles thereto;
- (p) the making of investigations into the charges being made or that should be made for towing or salvaging damaged motor vehicles; the appointment of persons to make such investigations; the powers and duties of such persons;
- (q) the amount to be charged by operators of tow trucks for the towing or salvaging of motor vehicles and fixing maximum and minimum charges therefor;
- (r) notification of the sale, disposal or acquisition of licensed tow trucks or tow trucks in respect of which permits have been issued;

- (s) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act and the revocation of any exemption or conditional exemption so granted;
- (t) the institution and conduct of and all matters pertaining to appeals against the chief executive's decisions for the purposes of this Act;
- (u) penalties of not more than 4 penalty units for each offence against a regulation.

## **PART 8—TRANSITIONAL PROVISIONS**

### **Tow-truck Act 1973 references**

**44.** In an Act or document, a reference to the *Tow-truck Act 1973* is a reference to this Act.

### **Approved forms**

**45.(1)** This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

**(2)** Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

**(3)** This section expires 3 months after it commences.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 December 1995. Future amendments of the Tow Truck Act 1973 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Reprint date
1	to Act No. 97 of 1991	27 September 1994

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of Table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Tow Truck Act 1973 No. 39**

date of assent 26 April 1973

commenced 1 October 1973 (proc pubd gaz 1 September 1973 p 1)

as amended by—

### **Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No. 30 pts 1, 7**

date of assent 17 April 1985

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 1986 (proc pubd gaz  
18 January 1986 p 126)

### **Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch**

date of assent 25 October 1989

commenced on date of assent

### **Public Service (Administrative Arrangements) Act 1990 No. 73 s 3 sch 5**

date of assent 10 October 1990

commenced 24 November 1990 (proc pubd gaz 24 November 1990 p 1450)

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 1**

date of assent 17 December 1991

commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

commenced on date of assent (see s 2)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by Statute Law  
Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1)**

date of assent 28 November 1995

commenced on date of assent

## **7 List of annotations**

### **Short title**

**s 1** amd 1994 No. 87 s 3 sch 2

### **Arrangement**

**s 3** om 1991 No. 97 s 3 sch 1

### **Interpretation**

**s 4** def “**approved form**” ins 1995 No. 57 ss 1–2, 4 sch 1  
def “**authorised officer**” amd 1985 No. 30 s 71; 1990 No. 73 s 3 sch 5  
def “**Commissioner**” om 1990 No. 73 s 3 sch 5  
def “**department**” ins 1990 No. 73 s 3 sch 5  
om 1991 No. 97 s 3 sch 1  
def “**Director-General**” ins 1990 No. 73 s 3 sch 5  
om R1 (see RA s 36)  
def “**towing authority**” amd 1995 No. 57 ss 1–2, 4 sch 1

### **Application for licence**

**s 6** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

### **Form and authority of licence**

**s 7** amd 1991 No. 97 s 3 sch 1

### **Renewal of licence**

**s 9** amd 1990 No. 73 s 3 sch 5

### **Imposition of conditions of licence**

**s 10** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

### **Permits to tow motor vehicles**

**s 11** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

### **Conditions of licence**

**s 12** amd 1985 No. 30 s 72; 1994 No. 87 s 3 sch 2

### **Application for driver’s or assistant’s certificate**

**s 14** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

### **Form and authority of driver’s or assistant’s certificate**

**s 15** amd 1991 No. 97 s 3 sch 1

### **Imposition of conditions on certificate**

**s 16** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

### **Duration and renewal of driver’s or assistant’s certificate**

**s 17** amd 1990 No. 73 s 3 sch 5

**Driver's certificate dependent upon driver's licence**

**s 18** amd 1990 No. 73 s 3 sch 5

**Permit for applicant for driver's or assistant's certificate**

**s 19** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

**Records**

**s 20** amd 1990 No. 73 s 3 sch 5

**Cancellation or suspension of licences or certificates**

**s 21** amd 1990 No. 73 s 3 sch 5

**Excess of authority**

**s 26** amd 1989 No. 103 s 3 sch

**Execution against motor vehicle**

**s 27** amd 1990 No. 73 s 3 sch 5

**Appeal from decision of chief executive**

**prov hdg** amd 1990 No. 73 s 3 sch 5

**s 28** amd 1990 No. 73 s 3 sch 5

**Appeal tribunal**

**s 29** amd 1990 No. 73 s 3 sch 5

**Secretary to appeal tribunal**

**s 30** amd 1990 No. 73 s 3 sch 5

**Procedure on appeal**

**s 31** amd 1990 No. 73 s 3 sch 5; 1991 No. 97 s 3 sch 1

**Venue and nature of appeal**

**s 32** amd 1990 No. 73 s 3 sch 5

**Determination of appeal**

**s 33** amd 1990 No. 73 s 3 sch 5

**Effect of appeal and of determination thereof**

**s 34** amd 1990 No. 73 s 3 sch 5

**Power to delegate**

**s 36** amd 1990 No. 73 s 3 sch 5  
om 1995 No. 57 ss 1–2, 4 sch 1

**Evidentiary provisions**

**s 37** amd 1990 No. 73 s 3 sch 5

**Service of documents**

**s 39** amd 1990 No. 73 s 3 sch 5

**Offences generally and penalty**

**s 40** amd 1990 No. 73 s 3 sch 5

**Approval of forms**

**s 42A** ins 1995 No. 57 ss 1–2, 4 sch 1

**Regulations**

**s 43** amd 1990 No. 73 s 3 sch 5; R1 (see RA s 39); 1995 No. 57 ss 1–2, 4 sch 1

**PART 8—TRANSITIONAL PROVISIONS****pt hdg** ins 1995 No. 57 ss 1–2, 4 sch 1**Tow-truck Act 1973 references****s 44** ins 1995 No. 57 ss 1–2, 4 sch 1**Approved forms****s 45** ins 1995 No. 57 ss 1–2, 4 sch 1  
exp 28 February 1996 (see s 45(3))