

Fact Sheet

March 2018

Private property parking and towing – tow truck drivers and assistants

In response to rising public concern about the towing of vehicles from private property parking areas, in 2017 the Queensland Government commissioned an independent investigation into the tow truck and vehicle removal industry. All 22 recommendations made by the independent investigation were accepted.

As a result of the recommendations, from 16 April 2018 the tow truck legislation will regulate the removal of vehicles from private property, **requiring all private property towing in regulated areas of Queensland to be performed by accredited drivers and assistants using licensed tow trucks**. As a tow truck driver or assistant accreditation holder, it is vitally important that you understand the changes to your obligations in relation to private property towing, as outlined in this fact sheet and detailed further at www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Driver-and-assistant-certificates

The following changes will apply from 16 April 2018.

Authority to remove vehicles

You can only tow vehicles from private property where the tow truck licence holder has entered into a contract with a property owner or occupier authorising the removal of vehicles parked on the property. Once a written contract is in place a *Towing consent* form must also be completed. This form is proof that the contract exists.

Vehicles cannot be removed if they are observed breaching parking conditions unless there is a contract and *Towing consent* in place. A *Towing consent* is available from www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder

You must be accredited with the Department of Transport and Main Roads (TMR) and must carry a copy of the *Towing consent* when towing vehicles from private property. You must also be able to produce the *Towing consent* to a vehicle owner or authorised officer on request.

Good conduct

Reasonable steps must be taken to locate the vehicle owner or driver **before** you load a vehicle onto the tow truck. Reasonable steps includes, for example, asking other people (at the carpark or nearby shops) if they know where the driver went; looking around the immediate area to see if the vehicle owner is nearby or approaching the carpark; looking for contact or business name details on the vehicle.

If the owner returns and you are in the process of loading and securing the vehicle on the tow truck, you must release the vehicle immediately without charge. If the owner returns after the vehicle has been loaded onto the tow truck (including secured in every way necessary) but you have not yet left the property, you must release the vehicle immediately if the owner pays the on-site release fee. Be courteous as the situation will be less stressful for all involved if everyone remains calm.

If, after taking reasonable steps you are not able to locate a vehicle owner or driver, you may tow the vehicle by the most direct route to the tow truck licence holders nearest TMR approved holding yard.

You must not allow a person to travel in the tow truck from the private property parking area unless the person has a driver's or assistant's certificate or they are the owner of the vehicle being towed, the owner's agent or they were a passenger in the vehicle. You must not tow a vehicle while there is a person inside it.

You must not directly or indirectly cause or threaten wilful injury to a person or their property; intimidate, harass, abuse or insult a person or prevent or hinder the delivery of first aid or medical treatment. You must take all reasonable precautions to prevent loss or damage to a motor vehicle and any personal items left in the vehicle while it is being towed and while it is in the holding yard.

Maximum towing charges

Maximum charges in relation to private property towing apply under the *Tow Truck Regulation 2009* include:

- a *standard tow* of a motor vehicle from private property capped at \$250
- the *on-site release* of a motor vehicle from private property capped at \$150. It is recommended that tow truck drivers have appropriate on-the-spot payment mechanisms available for motorists to pay the on-site release fee (EFTPOS or credit card facilities).
- a *daily charge* for storing a motor vehicle towed from private property to the nearest holding yard capped at \$25 per day.

A standard tow includes 60 minutes of working time at the scene, (including taking reasonable steps to locate the owner), moving the vehicle to the holding yard, and 72 hours of storage in the holding. The property owner must not be charged in addition to the vehicle owner.

Call-out fees and other fees such as for taking steps to locate the owner, travelling to the place where the vehicle is located, allowing the vehicle owner access to the vehicle at the holding yard (within business hours) and other incidental fees cannot be charged.

Holding yards

Once stored in the holding yard, a vehicle must not be removed without the written authority of the vehicle's owner or their agent. A vehicle must immediately be released to its owner or their agent on payment of fees payable under the *Tow Truck Regulation 2009*. A template *Towed vehicle and found property register* is available at www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder

Notifying the police

The licence holder must notify the Queensland Police Service (QPS) that the vehicle has been towed as soon as practicable but no later than 1 hour after a vehicle removed from private property is stored in the holding yard. To notify, the QPS electronic Tow Notification must be used. The QPS electronic Tow Notification will be able to be accessed directly from 16 April 2018 via <https://www.police.qld.gov.au/online/On-Line-Reporting-and-Updates.htm>, and the QPS Policelink app (you can download the Policelink app for free from the App Store and Google Play) or via the link provided on TMR's website at www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder

Property to be kept in safe custody

If the vehicle is unlocked, the licence holder must keep any property found in the vehicle in safe custody at their business address until the property can be returned to the vehicle owner or their agent. A vehicle must not be unlocked without the consent of the owner or their agent.

Disclosing personal information

You must not disclose to another person any personal information about the owner of a vehicle that you gained through towing of a motor vehicle unless it is to be disclosed to the vehicle owner, their agent or to an authorised officer.

Fees and terms

The accreditation term of 1 year has been adjusted to allow for 1, 2, 3, 4 and 5 year terms with an appropriate fee for each term. A 1 year term will cost \$104.45 (this is the existing fee for a 1 year term), 2 years will cost \$146.25, 3 years will cost \$187.15, 4 years will cost \$226.25 and a 5 year term will cost \$263.50.

Offences

A range of new and amended offences have been created to support the changes. Detail of these offences and associated penalties can be found at <https://www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme>