

Fact Sheet

March 2018

Private property parking and towing – tow truck licence holders

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 licence 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/Licence-holder. The following changes will apply from 16 April 2018.

Authority to remove vehicles

Prior to towing a vehicle from private property, you must enter into a contract with a property owner or occupier authorising the removal of vehicles parked on their 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. If you are uncertain whether you have an appropriate arrangement with the property owner or occupier, or uncertain if there is legal basis to remove a vehicle, you should obtain independent legal advice.

Your drivers and assistants must be accredited with the Department of Transport and Main Roads (TMR). Your drivers must carry a copy of the *Towing consent* when towing vehicles from private property and both you and your drivers must be able to produce the *Towing consent* to vehicle owners and authorised officers on request.

Good conduct

Reasonable steps must be taken to locate the vehicle owner or driver **before** loading 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 your driver is in the process of loading and securing the vehicle on the tow truck, the vehicle must be released immediately without charge. If the owner returns after the vehicle has been loaded onto the tow truck (including secured in every way necessary) but the driver has not yet left the property, they must release the vehicle immediately if the owner pays the on-site release fee.

Your holding yard/s must be approved by TMR. If after taking reasonable steps the vehicle owner or driver cannot be located, your driver may tow the vehicle by the most direct route to your nearest holding yard. Your drivers 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. Your drivers must not tow a vehicle while there is a person inside it.

Your drivers 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. Both you and your drivers 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 alternative 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

You must notify the Queensland Police Service (QPS) that you have towed a vehicle 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, you must use the QPS electronic Tow Notification. 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, you must keep any property found in the vehicle in safe custody until the property can be returned to the vehicle owner or their agent. You must not unlock a vehicle without the consent of the owner or their agent.

Records to be kept

The *Towing consent* between yourself and the property owner or occupier must be kept in safe custody at your business address for 1 year after it ceases to be in force. You must record information about a vehicle towed from a private property parking area to the holding yard or released from the holding yard, within 24 hours. These records must be kept at the business address stated in your tow truck licence for 1 year after the record is made. You must also keep an inventory of property found in the vehicle at the business address for 1 year after the record is made. 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

Authorised officers have authority to enter, search and view records and documents required to be kept. Auditing will be conducted by authorised officers to ensure operators are complying with the requirements.

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 licence 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. For each vehicle, a 1 year term will cost \$403.00 (this is the existing fee for a 1 year term), 2 years \$727.75, 3 years \$1,045.45, 4 years \$1,349 and a 5 year term \$1,638.50. New licence applicants will only be granted a 1 year term and will have the option to select a term of their choice on renewal, provided auditing has not detected non-compliance with legislative requirements.

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>.