



# Your say on Queensland's Tow Truck Scheme

Discussion Paper

October 2019



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# Introduction

The Queensland tow truck industry provides an important service to motorists, vehicle related industries and other businesses. Some towing services are regulated by the Queensland Government as they provide services to motorists when they are considered to be most vulnerable and in need of assistance. In addition, they undertake the important task of clearing roadways of debris following a crash, to ensure the efficient flow of traffic and keep roads safe for other road users.

In this two-part Discussion Paper, the Queensland Government seeks to gather your feedback about the effectiveness and accessibility of towing services provided in Queensland.

This Discussion Paper includes a post implementation review of the private property towing reforms that were introduced in 2018 (Part A). The Queensland Government is also taking the opportunity to take a broader look at the regulated tow truck scheme with the aim of identifying specific changes that will improve and modernise the scheme (Part B).

The post implementation review of private property towing reforms covers 22 recommendations and five of the eight matters for further consideration made in 2017 by the *Independent Investigation into the Towing Industry* (independent investigation) and implemented by the Department of Transport and Main Roads (TMR) on 16 April 2018.

The broader look at Queensland's tow truck scheme covers aspects of the scheme that have previously been highlighted by the tow truck industry or identified by TMR or the independent investigation as potentially needing change. Comments are welcome on any of the other aspects of the scheme not directly covered by this Discussion Paper. Additional comments or suggestions may be provided in the available space at the end of the online survey.

**Part A** of this Discussion Paper is the post implementation review of the private property towing reforms

**Part B** of this Discussion paper is the broader look at Queensland's tow truck scheme

## What is the paper for?

We are seeking feedback on the effectiveness of the private property towing reforms introduced in April 2018. We are also seeking the views of Queenslanders about how the tow truck legislation meets current and future needs for Queensland motorists, the tow truck industry, interested parties and other members of the community.

## Have your say

Community feedback on this Discussion Paper will be obtained through an online survey on the Queensland Government's Get Involved website (see [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)).

Queenslanders are invited to review the Discussion Paper and complete the online survey to share their views of the current regulated tow truck scheme, including the private property towing reforms.

# Glossary

## **Breakdown towing**

Removing broken down vehicles from roads.

## **Compliance towing**

Removing vehicles parked illegally on roads, including from clearways, no standing areas, or vehicles impounded under anti-hooning laws.

## **Crash towing**

Removing damaged vehicles from crash scenes, including scene clean up and vehicle storage in a holding yard.

## **Holding yard**

TMR approved premises for storage of towed vehicles.

## **Private property towing**

Removing vehicles parked on publicly accessible private property.

## **Regulated area**

The geographic areas in Queensland the *Tow Truck Act 1973* and *Tow Truck Regulation 2009* applies to.

## **Standard tow**

For a damaged motor vehicle at the scene of a crash, a standard tow includes not more than 60 minutes working time at the scene; moving the vehicle to a place stated in the towing authority and storing the vehicle in a holding yard for not more than 72 hours.

For a private property motor vehicle being towed from a private property, a standard tow includes not more than 60 minutes working time on the property, moving the vehicle to a holding yard, and storing the vehicle in a holding yard for not more than 72 hours.

## **Towing authority**

A record of the agreement between the tow truck driver and the vehicle owner or, in the event of incapacity of the owner, by an authorised officer, to tow a damaged vehicle from a crash or vehicle seized by police at an off-street regulated parking area.

## **Towing consent**

A document between an occupier of private property and tow truck licence holder that states there is an arrangement between the occupier and the holder to tow a private property motor vehicle from the property.

## **Trade towing**

Vehicles towed under prearranged private or commercial arrangements, including moving vehicles to mechanics or insurers, or delivering vehicles to dealerships for sale.

## **Working time**

For a damaged motor vehicle at the scene of a crash means the time spent at the scene, after a person has signed a towing authority for the motor vehicle, to prepare the vehicle for towing and cleaning up the scene.

For a private property vehicle on private property means the time spent on the property taking reasonable steps to find the owner of the vehicle and preparing the vehicle for towing.

# Part A – Post implementation review of private property towing reforms

Prior to 16 April 2018, only the towing of a motor vehicle from the scene of a crash or vehicles seized by police at off-street regulated parking areas in Queensland was regulated by the *Tow Truck Act 1973 (Act)* and *Tow Truck Regulation 2009 (Regulation)*. The Act and Regulation applies only in regulated areas, which are mainly limited to South East Queensland and the major urban local government centres along the east coast.

All other forms of towing including compliance towing (that is, the removal of illegally parked vehicles), vehicle breakdowns, trade tows and the removal of motor vehicles from private property (such as car parks), were not subject to the provisions of the Act and Regulation.

Due to growing community concern over unfair and intimidatory practices around the removal of vehicles parked on private property, an independent investigation was commissioned by the Queensland Government in May 2017.

The Queensland Government accepted all 22 recommendations and eight matters for further consideration made by the independent investigation in August 2017. The 22 recommendations and five of the eight matters for further consideration commenced operation on 16 April 2018. Many of the recommendations and matters for further consideration prompted changes to the Act and Regulation.

The changes expanded the regulated tow truck scheme to include the towing of vehicles from private property and included:

- requiring private property towing to be performed by accredited drivers and assistants using licensed tow trucks
- setting maximum towing, onsite release and storage fees
- requiring notification to Police of all vehicles towed from private property
- increasing the penalties for operating a tow truck without a licence or accreditation
- imposing conduct requirements to ensure fair, reasonable and professional towing practices
- restricting the disclosure of information about private property towing to protect motorists' privacy
- developing guidelines for signage
- improved monitoring and enforcement activities to maximise compliance with the licensing and accreditation requirements
- improving motorists, private property owners and occupiers, and towing operators' awareness of their rights and obligations regarding private property parking and towing.

The changes were aimed at ensuring the rights and interests of private property owners and occupiers, towing operators, and motorists are appropriately balanced. The changes provide protections for motorists to minimise potential exploitation and promote fair and reasonable private property towing practices.

The independent investigation consulted stakeholder groups including local governments, towing operators, private property owners and occupiers, motorists and the general community, and industry representative organisations. Information was gathered from the community through the tow truck hotline established by TMR to receive complaints and feedback on the towing industry. The investigation also received written submissions and held meetings with a range of stakeholders.

Issues identified by the independent investigation included the limited availability of parking particularly in towing hotspots, for example, inner-city regions where restaurant, retail and entertainment precincts are concentrated. In addition, the independent investigation identified issues with poor signage, predatory towing practices, unauthorised parking damaging occupiers' businesses, excessive towing and storage fees, intimidation and aggressive conduct of towing operators and subsequent anxiety and distress suffered by motorists.

The rights of private property owners and occupiers to manage their parking areas were considered by the independent investigation including removing vehicles parked on their property, while maintaining motorists' right to possession of their vehicle. The investigation made 22 recommendations and eight matters for further consideration. The *Independent Investigation into the Towing Industry report* can be viewed at [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au). **Attachment A** of this Discussion Paper contains the recommendations and matters for further consideration.

To reduce repetition in this Discussion Paper, the recommendations and matters for further consideration have been grouped appropriately in the following sections. The sections explain what happened in Queensland prior to the changes in April 2018, a short summary of the independent investigation findings and details of the changes subsequently introduced.

## 1.1 Regulating private property towing

### What happened in Queensland before the changes?

Private property towing was not regulated and therefore there were no requirements in the Act and Regulation that applied to tow truck operators conducting this type of towing. TMR periodically received complaints from motorists however, as no requirements existed, frequently no action could be taken. In instances where serious conflict was alleged the matter was referred to the Queensland Police Service (QPS) for investigation and consideration of potential action under the Criminal Code.

#### Independent investigation

The independent investigation, found that the community had concerns with this towing practice, claiming it was not warranted and was unfair. Concerns were also raised about the emotional distress and potential safety issues due to motorists feeling stranded and vulnerable, concerns regarding the intimidatory and threatening behaviour of tow truck operators and excessive fees for towing and storage of vehicles.

The independent investigation concluded that regulating private property towing was an appropriate way to respond. The regulation would deter inappropriate behaviour and introduce minimum standards for tow trucks, business premises and holding yards and allow for suitability checking of licence and accreditation holders. Regulating private property towing would also give TMR the authority to monitor and enforce safety and the conduct of licence and accreditation holders, ensuring services are provided in a professional manner and motorists are protected. The independent investigation made recommendations 1, 5 and matter for consideration 8 to address these concerns. The penalty part of recommendation 1 is covered in section 1.8.

### The changes adopted in Queensland

Private property towing was adopted into the regulated tow truck scheme, requiring private property towing, in regulated areas, to be performed by accredited tow truck drivers and tow truck assistants using licensed tow trucks. Similar requirements now apply to private property towing as previously applied only to the removal of vehicles from crashes or vehicles seized by police at off-street regulated parking areas.

Since introduction of the changes 13 new tow truck licence holder approvals have been granted bringing the total number of tow truck licence holders to 105.

Licence and accreditation holders must comply with a range of conditions including conditions on how they conduct themselves. The Act and Regulation expressly prohibits threatening, intimidating, insulting and harassing behaviour including threatening to damage property. By licensing and accrediting those involved in private property towing, TMR has the opportunity to check the operator's criminal history to ensure they do not have charges or convictions for offences that would make them an unacceptable safety risk to the public and to property.

The definition of criminal history was expanded to ensure the full criminal history is able to be assessed before an application is approved. Serious offences, for example, homicide, assault including sexual assault, drug, weapon and domestic violence may result in an application being refused or suspension or cancellation of an existing licence or accreditation. Licence and accreditation holders are also subject to daily Queensland criminal history checks as part of their ongoing suitability to hold the licence or accreditation.

Numerous existing requirements in the Act and Regulation were extended to include private property towing, for example:

- specific records must be maintained about towed vehicles and any property found in them;
- property found in unlocked vehicles must be kept in safe custody;
- tow trucks must comply with design and equipment requirements, have appropriate signage identifying the licence holder and undergo annual inspections;
- licence and accreditation holders must notify the chief executive of TMR within 14 days, if they are charged or convicted of a disqualifying offence.

In the first 12 months since the introduction of the reforms, there have been 64 complaints to the tow truck hotline about towing from private property compared to 515 complaints received by the hotline from May 2017 until the changes were adopted.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.2 Establishing authority to tow from private property

### What happened in Queensland before the changes?

In some areas, particularly inner-city regions, around popular restaurants, retail and entertainment precincts, limited parking availability led to motorists parking in areas where they were not authorised to park. Property owners and occupiers often arranged for unauthorised vehicles to be removed from their property by engaging a tow truck operator.

This towing practice was largely carried out under informal arrangements between the tow truck operator and property owner/occupier. Some tow truck operators were opportunistic and employed questionable business practices to remove vehicles from private property. Even though many motorists acknowledged that they had parked contrary to signed parking rules, they were still aggrieved by the fact that their vehicle had been removed without their permission or knowledge.

### Independent investigation

The independent investigation found that the legal basis for private property towing was not clear due to the competing rights of occupiers to control parking on their property and the rights of motorists to maintain possession of their vehicle.

The independent investigation concluded that a contractual arrangement between occupiers and towing operators, in conjunction with highly visible and clear signage, was an appropriate mechanism for vehicles to be removed from a property as it would provide a record of the property owners/occupiers approval for a vehicle to be removed. Recommendation 3 was made by the independent investigation to ensure the removal of vehicles from private property was authorised by the property owner/occupier. The penalty part of recommendation 3 is covered in section 1.8.

### The changes adopted in Queensland

Before vehicles are towed from private property, tow truck licence holders must enter into a contract with the property owner/occupier authorising the removal of vehicles parked on their property. Once a written contract is in place a *Towing Consent* form must be completed.

The purpose of the *Towing Consent* is to ensure the tow truck licence holder has the occupier's approval to remove the vehicle and is only acting at the request of the private property owner/occupier – that is, they are not independently monitoring and enforcing parking conditions of their own initiative.

A *Towing Consent* includes information about the tow truck licence holder, the property owner/occupier who is providing their consent, the property and the period of time the consent is valid for. The *Towing Consent* must be carried by the tow truck driver when towing vehicles from the property and produced to a vehicle owner or enforcement officer if requested.

Until a contract has been entered into and a *Towing Consent* form completed, tow truck drivers are not authorised to tow vehicles from the property.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)



## 1.3 Requirements before and during towing

### What happened in Queensland before the changes?

Conflict often arose if a vehicle owner returned while the tow truck operator was in the process of loading their vehicle on the tow truck. TMR occasionally received complaints from motorists alleging they had been subjected to abusive and threatening behaviour when they returned to a car park to find their vehicle in the process of being loaded onto a tow truck and requested its release.

#### Independent investigation

The independent investigation concluded that additional requirements on licence and accreditation holders would potentially avoid conflict arising between vehicle owners and tow truck drivers. The investigation also found that obligations on Police Officers when seizing vehicles at off-street regulated parking areas under the *Police Powers and Responsibilities Act 2000*, required officers to take reasonable steps to locate a motorist before having a vehicle loaded on a tow truck. Recommendations 5, 8 and 13 were made to reduce the potential for conflict between motorists and tow truck operators. The penalty part of recommendations 5 and 8 are covered in section 1.8.

### The changes adopted in Queensland

Before a tow truck driver removes a vehicle from private property they must take reasonable steps to locate the motorist and give them the opportunity to move the vehicle themselves. TMR considers reasonable steps to include, 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 motorist is nearby or approaching the carpark; looking for contact or business name details on the vehicle.

Tow truck drivers may only tow a vehicle from the property if they:

- cannot find the owner or driver
- find the owner or driver and they refuse to move the vehicle
- reasonably believe that the owner or driver cannot or will not move the vehicle from the property.

If the owner or driver returns before the tow truck driver has finished loading and securing the vehicle onto the tow truck, and the owner or driver agrees to move the vehicle from the property, the tow truck driver must release the vehicle immediately, without imposing a fee.

If the owner or driver returns after the tow truck driver has finished loading and securing the vehicle onto the tow truck but before the tow truck has left the property, the tow truck driver must inform them that if they pay the on-site release fee the vehicle will be released immediately.

An existing requirement in the Act was extended and obligates the licence holder to ensure that their tow truck drivers take reasonable precautions to prevent loss or damage to a vehicle and any personal items left in the vehicle while it is being towed.

Once a vehicle has finished being loaded and secured on the tow truck it must be taken by the most direct route to the licence holder's nearest holding yard.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.4 Requirements after towing

### What happened in Queensland before the changes?

Some tow truck operators were in the practice of notifying QPS that they had towed a vehicle from private property however, this was not a mandatory requirement. Motorists who returned to find their vehicle missing had no way of knowing where their car had been taken in instances where signs at the property were non-existent, hidden or contained an outdated telephone number for the tow truck operator. Motorists would generally contact QPS to report their vehicle stolen.

## Independent investigation

The independent investigation concluded that an additional requirement should be placed on licence holders to notify QPS of the fact that a vehicle had been towed from private property. The independent investigation made recommendation 4, to ensure motorists could identify where their vehicle had been taken in the absence of adequate signs. The penalty part of recommendation 4 is covered in section 1.8.

## The changes adopted in Queensland

Once a towed vehicle arrives at the holding yard the licence holder must notify QPS within one hour that they have towed the vehicle. Licence holders can do this by using an on-line service developed by QPS for this purpose.

Motorists may contact QPS to verify if their car has been towed if they return to where they left their car and it is missing and there is no signage.

In the first 12 months since the changes commenced (from 16 April 2018 to 15 April 2019), Police have received 1,732 notifications about vehicles being towed from private property.

Existing requirements in the Act and Regulation were extended placing obligations on licence holders to not move vehicles stored in the licence holder's holding yard, without the express consent of the vehicle owner. Other changes included:

- the licence holder is obligated to take reasonable precautions to prevent loss or damage to a vehicle and any personal items left in the vehicle while it is stored in the holding yard. If the vehicle is unlocked, any property found in the vehicle must be kept in safe custody by the licence holder until the property can be returned to the vehicle owner or their agent. Licence holders are required to maintain an inventory of property found in unlocked vehicles as soon practicable, after the vehicle arrives at the holding yard.
- If a vehicle owner contacts the licence holder to arrange collection of items left in the vehicle, the licence holder cannot charge a fee to view the vehicle during business hours (9am to 5pm Monday to Friday, excluding public holidays). If the owner wishes to collect items or view the vehicle outside of business hours, the licence holder must inform them of any fee, in writing in advance.
- Licence holders must release a vehicle to the owner or agent within four business hours after receiving a request by moving the vehicle to an accessible position at the entrance of the holding yard, where the owner or agent can take possession of the vehicle. Provided all fees payable under the Act and Regulation have been paid, the licence holder cannot refuse to release the vehicle.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.5 Fees for regulated towing

### What happened in Queensland before the changes?

As private property towing was not part of the regulated tow truck scheme there were no requirements on tow truck operators to cap fees or ensure their fees were reasonable. Practices adopted by tow truck operators differed, resulting in some operators charging for call out if the owner returned before the vehicle was finished being loaded at the property, while others required payment of the full towing fee.

## Independent investigation

The independent investigation found that excessive fees was a major concern for the community and concluded that the unregulated nature of private property towing failed to establish competitive market driven towing rates. For these reasons, the independent investigation concluded that fees relating to release of a vehicle from the property, towing and storage should be capped.

When considering capped fees to recommend for towing from private property, the independent investigation considered Queensland's current maximum regulated fee for crash towing, the *New South Wales Independent Pricing and Regulatory Tribunal* review of tow truck fees (for crash and stolen vehicle recovery towing), crash towing fees regulated in other states and Queensland Civil and Administrative Tribunal consideration of compliance towing fees. The independent investigation considered that \$150 was an appropriate fee for on-site release of a vehicle from private property, \$250 for a standard tow of a private property vehicle released from a holding yard and \$25 per day for vehicle storage at the holding yard, after the initial 72 hours have passed, provided as part of a standard tow. As at 1 July 2019, these fees have increased to \$153.40, \$255.65 and \$25.55 respectively.

The independent investigation also concluded that certain fees should be prohibited from being charged. Recommendations 6, 7, 9, 10, 11 and 12 were made to ensure fees passed on to motorists in relation to private property towing were reasonable. The penalty part of recommendations 6, 7, 11 and 12 are covered in section 1.8.

### The changes adopted in Queensland

Maximum regulated fees were introduced to ensure motorists were not subjected to excessive fees by tow truck operators. These include fees for:

- on-site release of a vehicle at the private property before the vehicle is towed to the holding yard - \$150 (as at 1 July this fee increased to \$153.40)
- a *standard tow* of a vehicle released at the licence holder's holding yard - \$250 (as at 1 July this fee increased to \$255.65)
- a daily storage fee of \$25 for storing a vehicle in the holding yard (after the initial 72 hours have passed) (as at 1 July this fee increased to \$25.55)

To distinguish between a straight forward tow and a complex tow, the Regulation defines a *standard tow* of a vehicle removed from private property as follows:

- a tow of the vehicle from the property to the holding yard; and
- not more than 60 minutes of *working time* at the property taking reasonable steps to locate the owner or driver and preparing the vehicle for towing; and
- moving the vehicle from the property to the holding yard; and
- storing the vehicle at the holding yard for 72 hours.

The maximum fee that can be charged for the release of a motor vehicle from the holding yard, for a *standard tow* is \$250 (as at 1 July this fee increased to \$255.65).

If the *working time* at the property exceeds 60 minutes, then the tow was not a standard tow and the licence holder may charge more than the maximum fee however, the fee charged must be reasonable and able to be justified.

The vehicle owner is liable for payment, to the tow truck licence holder, of the regulated fees associated with towing and storage of the vehicle.

Certain fees are prohibited from being charged by the tow truck licence holder. These include fees for:

- travelling to the place where the vehicle is located
- taking steps to locate the vehicle owner
- using a lifting or loading device with which a tow truck is equipped.
- fuel
- administrative work
- taking or producing photographs
- preparing or sending documents or information
- storing personal property left in the vehicle
- allowing the vehicle owner access to the vehicle at the holding yard (during business hours)

- moving the vehicle within the holding yard.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.6 Information privacy

### What happened in Queensland before the changes?

Towing operators with an annual turnover of more than \$3M are bound by the Australian Privacy Principles in the *Privacy Act 1988* (Cwth) while towing operators with an annual turnover of \$3M or less are not. Information disclosure requirements in the Act and Regulation applied only to tow truck operators conducting regulated towing.

#### Independent investigation

The independent investigation found that providing identification to the towing operator when retrieving a vehicle was important to ensure the vehicle is not given to the wrong person. However, the independent investigation also found that the community were concerned about their personal information being exposed to the tow truck operator when retrieving their vehicle.

The independent investigation concluded that prohibiting licence and accreditation holders from disclosing personal information, that they gained through the towing of a vehicle, was an appropriate means of protecting the personal information of motorists. The independent investigation made recommendation 14, 15 and 16, to restrict the disclosure of motorists' personal information.

### The changes adopted in Queensland

To protect the personal details of motorists, anyone associated with the towing service is prohibited from disclosing information about a towed vehicle or its owner or driver if the information was gained through the towing of a motor vehicle. This includes the tow truck licence holder, tow truck driver, tow truck assistant and a person employed, engaged or acting in connection with the storage or release of the vehicle. The only instance where disclosing information is permitted is:

- to comply with the requirement to notify Police about the towed vehicle;
- to provide information on request by an authorised officer or the vehicle owner or their agent;
- to provide information to someone who needs the information to carry out their business or occupation in connection with the vehicle for example a security guard engaged or employed at a holding yard used to store motor vehicles.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.7 Car park signage

### What happened in Queensland before the changes?

Private property owners and occupiers used numerous approaches to signs indicating the parking rules for their property or that parking is strictly prohibited. Some properties displayed no signage to indicate that parking was prohibited.

A consistent theme of calls to the TMR tow truck hotline was inadequate signs, with some callers admitting that despite clear signage detailing the parking rules they still made the decision to park on the property.



## Independent investigation

The independent investigation concluded that the importance of appropriate signage could not be overemphasised and had the potential to alleviate conflict between motorists and tow truck operators. The independent investigation considered that it was not appropriate to regulate signage on private property however, recommended that signage guidelines be developed and made available to private property owners and occupiers. Recommendation 17 was made to ensure consistent signage guidelines were made available.

## The changes adopted in Queensland

The *Private Property Signage Guideline* was developed by TMR and recommends that signs be prominently displayed at each entrance point facing entering traffic and should also be placed at regular intervals throughout the property. The Guideline also makes recommendations about sign illumination, size and design such as colours, content such as parking rules and the consequences of not complying with the sign, towing operator details and towing costs.

The *Private Property Signage Guideline* is available on the TMR website [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au).

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

# 1.8 Offences and penalties

## What happened in Queensland before the changes?

As private property towing was not regulated, offences under the Act and Regulation did not apply to tow truck operators conducting private property towing. In instances where the nature of complaints alleged serious conflict, the matter was referred to QPS for investigation and consideration of potential action under the Criminal Code.

## Independent investigation

The independent investigation recognised that penalties play an important role in encouraging compliance with statutory requirements and recommended a range of new penalties for the new requirements. In addition, the independent investigation recommended that the maximum penalty that may be imposed under the Regulation be increased to encourage compliance. The independent investigation made recommendations 2, 3, 4, 5, 6, 7, 8 and 11 and matters for consideration 6 and 7, to ensure penalties were relevant and consistent with the recommendations.

## The changes adopted in Queensland

The maximum penalty that can be imposed under the Regulation was increased from 20 to 80 penalty units. New offences were created for the new requirements – see **Attachment B**. In addition, many of the penalties for existing offences were increased and broadened so they apply to private property towing – see **Attachment C**.

The maximum penalty amounts were set to ensure they reflect the seriousness of the offence and deter non-compliance with the requirements.

Anyone who contravenes a requirement may be issued an infringement notice requiring the payment of a fine, or the matter may be dealt with by a court. TMR may also initiate action to suspend or cancel a licence or accreditation. If TMR considers public safety has been or could be endangered, TMR has authority to immediately suspend a licence or accreditation.

Since introduction of the changes 56 infringement notices have been issued.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.9 Changes to how licences and accreditations are managed

### What happened in Queensland before the changes?

Tow truck licences and tow truck driver and assistant accreditation were issued for a one-year term. Licence and accreditation holders were obligated to renew the licence or accreditation no sooner than 2 weeks before expiry. This allowed time for suitability checking to be conducted before expiry of the licence or accreditation.

#### Independent investigation

The independent investigation considered the one-year term against other transport accreditations and recommended that alternative terms should be offered. The independent investigation concluded that providing optional licence and accreditation terms would provide a balance with the new requirements being imposed.

The independent investigation also considered that the restriction on when a licence or accreditation can be renewed should be removed to allow plenty of time for holders to renew the licence or accreditation. The independent investigation listed matters for consideration 4 and 5 to address this.

### The changes adopted in Queensland

The terms for a licence or accreditation were adjusted to include one to five-year terms with an appropriate fee for each term. Fees are adjusted in line with government indexation rate (GIR) from 1 July each year.

For each vehicle on a licence the relevant fee below currently applies (as at 1 July 2019):

Term	1 year	2 years	3 years	4 years	5 years
Cost	\$426.50	\$744.10	\$1,068.95	\$1,379.35	\$1,675.35

New tow truck licence applicants are only granted a one-year term and have the option to select a longer term on renewal, provided auditing has not detected non-compliance with the Act and Regulation.

For each tow truck driver and tow truck assistant accreditation, the relevant fee below currently applies (as at 1 July 2019):

Term	1 year	2 years	3 years	4 years	5 years
Cost	\$110.55	\$149.55	\$191.35	\$231.35	\$269.45

The restriction preventing renewal of a licence or accreditation being lodged no sooner than two weeks before it expired, was removed providing licence and accreditation holders an extended period of time to lodge a renewal application.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 1.10 Awareness about the changes

### What happened in Queensland before the changes?

Information available on the TMR website was aimed at raising motorists' awareness of what to do in the event of a crash. Website information available for tow truck operators included how to apply for a licence or accreditation and conditions that applied once an application had been approved. Limited information was available about towing from private property.

## Independent investigation

The independent investigation concluded that an education and awareness campaign should be undertaken to ensure motorists, private property owners and occupiers and tow truck operators were made aware of the relevant changes. The independent investigation made recommendation 21 and 22, to ensure notification about the changes was conveyed to Queenslanders.

## The changes adopted in Queensland

TMR conducted an education and awareness campaign targeting motorists, towing operators and private property owners and occupiers. The campaign included a ministerial media statement, updates to the TMR website targeting licence and accreditation holders, motorists and private property owners/occupiers, an article in the RACQ Road Ahead publication and TMR Facebook messaging.

Letters with fact sheets were mailed to all registered operators of tow trucks, recorded on the vehicle register, and existing licence and accreditation holders. Information about the changes was also provided to stakeholders who were consulted during the independent investigation.

Outdoor advertising billboards (on the Gateway Motorway at Bald Hills and the Tugun Overpass) and variable message signs (at the North Coast and the Darling Downs regions) were utilised to promote the changes. In addition, electronic messaging was displayed in TMR Customer Service Centres.

The TMR publication *Your Keys to Driving in Queensland* was updated to include information about the changes.

These communication channels were utilised to keep costs low while providing a broad coverage of media to disseminate information about the changes.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

# 1.11 Policies, procedures and training

## What happened in Queensland before the changes?

TMR's policies and procedures existed for activities related to regulated towing only. Auditing of tow truck licence holders was conducted on an irregular basis mainly on receipt of complaints.

## Independent investigation

The independent investigation concluded that administration, monitoring, enforcement and training about the regulated tow truck scheme could be significantly improved by the establishment of a central TMR tow truck unit to maintain oversight of private property towing activities. Recommendations 18 and 20 were made to ensure oversight of, and focused procedures and training related to regulated towing activities.

## The changes adopted in Queensland

New policies, procedures and resources were developed by TMR to aide administration and enforcement of the legislative requirements for private property towing.

An audit program was introduced which requires licence holders to undergo regular auditing of their records, business premises and holding yards. The audit program includes three audit types including:

- pre-licence audits, conducted before a new licence holder is approved
- triggered audits, conducted following receipt of a complaint
- regular scheduled compliance audits.

Any non-compliance detected during an audit results in a corrective action request being issued. Failure to comply with a corrective action request may result in further action such as infringement notice being issued or where serious non-compliance is detected, action may be initiated to suspend, immediately suspend or cancel the licence.

Since introduction of the changes 93 audits have been conducted on tow truck licence holders.

A central tow truck unit within TMR oversees complaints reported to the tow truck hotline and ensures they are investigated. Depending on the nature of the complaint an audit may be conducted to determine if wide-spread non-compliance is occurring. Generally, complaints are dealt with by either providing education to the licence or accreditation holder, issuing warning letters, issuing infringement notices where evidence is substantiated, initiating action to suspend, immediately suspend or cancel the licence or accreditation.

Presentations and focused training about the changes were provided to relevant TMR staff. QPS was also provided a presentation, Q&A's and other relevant material to assist with dissemination and training about the changes.

## 1.12 Publishing information on the TMR website

### What happened in Queensland before the changes?

No statistical information was reported on the TMR website in relation to either regulated towing or private property towing.

### Independent investigation

The independent investigation concluded that the central tow truck unit should publish deidentified information on the TMR website on a six-monthly basis, to provide transparency around the activities related to the regulated tow truck scheme and made recommendation 19 to report on specific matters.

### The changes adopted in Queensland

The information detailed in Recommendation 19 is being published on the TMR website on a six-monthly basis, as follows:

- from commencement of the changes on 16 April 2018 to 30 October 2018
- for the period from 1 November 2018 to 15 April 2019.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)



## Part B – Broader look at Queensland’s tow truck scheme

The Act and Regulation requires the licensing of tow truck operators (referred to as tow truck licence holders) and accreditation of tow truck drivers and tow truck assistants involved in towing of motor vehicles, in regulated areas of South East Queensland and the major urban local government centres along the east coast. The licensing applies to towing from the scene of a crash, vehicles seized by police at off-street regulated parking areas, and towing of vehicles from private property.

All other forms of towing including breakdown towing, trade towing and compliance towing are not covered by the regulated tow truck scheme.

Queensland’s regulated tow truck scheme includes provision for:

- the licensing of tow truck businesses (licence holders) and accreditation of tow truck drivers and tow truck assistants;
- the regulation of maximum towing fees;
- the requirement for tow truck licence holders to maintain a holding yard that meets specific requirements to ensure vehicles, often containing personal possessions, are kept in safe custody;
- conduct obligations of tow truck licence holders, tow truck drivers and tow truck assistants; and
- the requirement for criminal history checks and ongoing criminal history monitoring of tow truck licence holders, tow truck drivers and tow truck assistants.

As at 1 September 2019, there were 98 tow truck licence holders, 809 accredited tow truck drivers and 49 accredited tow truck assistants in Queensland.

The Act and Regulation were initially established in 1973 to ensure the orderly and timely clearing of motor vehicles involved in crashes and minimise emotional trauma to crash victims and protect their property at a time when they are vulnerable. Tow truck drivers, assistants and licence holders play an important role in ensuring the quick, safe and controlled clearing of crash scenes, including the removal of vehicles involved and removal of debris to reduce the road safety risk to other motorists.

The Regulation was expanded in 1997 to incorporate the towing of vehicles seized by police at off-street regulated parking areas and in 2018, to include private property towing reforms resulting from the independent investigation.

As the current Regulation has been in place for almost 10 years, a broader look at Queensland’s tow truck scheme is timely. This will help ensure the scheme provides an effective and contemporary framework for the regulation of the towing industry and continues to achieve its intended community objectives, without imposing undue regulatory burden on the tow truck industry.

### 1. Types of towing services

#### What happens in Queensland?

Regulated towing services in Queensland are defined under the following categories:

- towing of damaged vehicles from the scene of a crash
- towing of vehicles seized by police at off-street regulated parking areas
- towing of vehicles parked on private property

The tow truck scheme initially applied only to crash towing but was extended to incorporate the towing of vehicles seized by police at off-street regulated parking areas, and more recently, to include private property towing resulting from the independent investigation commissioned by the Queensland Government in 2017.

The framework does not currently apply to breakdown towing, trade towing, or compliance towing, that is, towing of illegally parked cars on a road or vehicles impounded under the anti-hooning laws.

## What happens elsewhere?

New South Wales regulates all types of towing services, with all operators needing to be licensed and drivers accredited. All of Victoria is regulated for towing of vehicles damaged in crashes only. Other forms of towing, such as trade towing, is not regulated.

In South Australia, all towing services within the greater Adelaide metropolitan area are regulated including the requirement for tow trucks to be approved and drivers accredited.

## What could Queensland do differently?

In Queensland, regulation of towing services was established to ensure the orderly and controlled clearing of vehicles involved in crashes and to minimise emotional trauma, at a time when these crash victims are most vulnerable. Regulation also provides for additional protection measures to ensure motorists' vehicles and their property are adequately protected and ensures that public roads are cleared in a timely and efficient manner. Towing, in these circumstances, may place the motorist in often difficult and stressful situations, and with the added pressure of multiple tow truck licence holders competing for towing work, warrants government regulation to ensure that adequate controls exist, and additional consumer protection measures are in place.

We are seeking feedback on whether a need exists to support the expansion of the regulation to other types of towing services such as trade, breakdown and compliance towing. A description of these other types of towing services is provided below.

Breakdown and trade towing services differ from current regulated towing services, in that, in most situations, the motorist can arrange their choice of towing provider. With respect to breakdown towing services, the choice of provider may often be dictated through affiliation with a motoring association or insurance provider. The choice of provider may also be influenced by factors such as price, punctuality, behaviour and so on that affects their businesses reputation, with this competition element being of benefit to the motorist. In addition, the motorist is not likely to be placed in a vulnerable situation or exposed to emotional distress with competing towing operators, so there is generally less of a need for government regulation of these services.

Similarities exist between regulated private property towing and compliance towing which is unregulated, as both services effectively deal with the removal of illegally parked vehicles. Despite this, however, the towing of illegally parked vehicles on a road (from clearways, no standing zones etc) or vehicles impounded as a result of the Queensland anti-hooning provisions, are authorised or arranged by either the Queensland Police Service, local government or road provider. As such, the need for consumer protection and industry regulation has not been considered necessary in the past. It is also understood that most of these tows are undertaken under an arrangement which requires that the tow truck operator be licensed, so the need for licensing of these specific types of services is also not necessary.

Occasionally vehicles stopped on motorways may require towing to ensure the continuous flow of traffic and where road safety risks exist for other motorists if the vehicle remains at the location. In these instances, the vehicle is usually towed to a predetermined safe drop-off point, so the motorist can organise a subsequent tow with a towing operator of their choice. Once again, these towing services have traditionally not been regulated as there has not been a need for increased consumer protection measures.

If all tow truck services including trade, breakdown and compliance towing were regulated, all operators of towing services would need to be licensed and all tow truck drivers/assistants accredited. However, it has not been considered necessary in the past to regulate all forms of towing, just those higher risk services like crash, private property and towing of vehicles seized by police at off-street regulated parking areas.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 2. Regulated areas

### What happens in Queensland?

In Queensland, the tow truck scheme requires the licensing of tow truck operators and accreditation of tow truck drivers and tow truck assistants involved in towing of motor vehicles, in regulated areas of Queensland:

- from the scene of a crash,
- vehicles seized by police at off-street regulated parking areas, and
- towing of vehicles from private property.

Regulated areas include South East Queensland and the major urban local government centres along the east coast. These areas were chosen based on population where there was a need for government intervention to protect motorists due to numerous towing operators competing for towing work.

The current regulated areas as detailed in Schedule 4 of the Regulation, consist of cities, parishes and local government boundaries which pre-date the 2008 Queensland local government boundary amalgamations and include:

- The Shires of - Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.
- The Cities of - Brisbane, Bundaberg, Cairns, Caloundra, Gold Coast, Hervey Bay, Ipswich, Logan, Mackay, Maryborough, Redcliffe, Rockhampton and Toowoomba.
- The areas made up of the parishes of:
  - Clement and Hinchinbrook in the county of Gray
  - Beor, Bohle, Coonambelah, Ettrick, Halifax, Hervey, Lansdowne, Magnetic, Margenta, Rokeby, Ross, Stuart and Wyoming in the county of Elphinstone.

A number of these areas do not align with the current Queensland local government boundaries. Issues have been experienced by the tow truck industry and law enforcement officers in identifying the geographic areas where the tow truck scheme applies. This has led to some instances, for example, of where a non-accredited tow truck driver is closest to a crash scene, however, is not permitted to attend as the location is in a regulated area. This can impact on the ability to clear the crash scene efficiently and effectively. These issues are particularly evident in locations such as Gympie and Tiaro as they lie directly between the Shire of Noosa and the City of Maryborough which are both regulated areas.

There are approximately 685 tow trucks registered within Queensland whose garaging address is located outside a regulated area. However, it is unknown exactly what towing services are being performed by these vehicles.

As a result of the local government amalgamations in 2008, it is not possible to simply update the regulated areas without imposing requirements on parts of the state that are not currently regulated, or without reducing requirements in some areas currently regulated. It is also not viable to continue to use the out-dated local government areas as the regulated areas, due to the difficulties experienced by the tow truck industry and law enforcement officers in determining the exact location of the boundaries.

### What happens elsewhere?

In New South Wales, all tow truck operators must be licensed, and drivers must be certified, with no restriction on where an operator may conduct towing activities.

Crash towing is regulated across all of Victoria and only accredited drivers and tow truck vehicles can attend crash scenes to remove damaged vehicles that are unable to be driven. An accident allocation scheme exists where tow trucks are allocated from a central point. The allocation scheme operates in the Melbourne and Peninsula areas, and in Geelong.

South Australia regulates all towing services within the greater Adelaide metropolitan area, requiring that tow trucks operating in this area be approved and drivers accredited. Tow trucks are dispatched to crashes in this area through a roster allocation scheme.

## What could Queensland do differently?

We are seeking feedback on the geographic areas the tow truck scheme should apply to. You should consider whether the options outlined below are simple and practical and will meet the needs of the tow truck industry and motorists in Queensland.

### Option 1 – Regulate all of Queensland

One possible option is the removal of all regulated areas resulting in the tow truck scheme applying to all of Queensland. This would mean that all tow truck operators and tow truck drivers/assistants undertaking crash towing, the towing of vehicles seized by police at off-street regulated parking areas, or private property towing would need to be licensed/accredited.

Ongoing fees would apply as these operators and drivers/assistants would be subject to annual licence holder fees. As at 1 July 2019 these fees increased to \$426.50 per tow truck, and driver/assistant fees between \$110.55 per year to \$269.45 for 5 years. A requirement would also exist for tow truck operators to purchase or lease TMR compliant holding yard premises.

Tow trucks operating in the current non-regulated areas are likely to be local owner/drivers who provide all types of towing services to the surrounding area. There are likely to be limited numbers of tow trucks in these areas competing for towing work resulting in less need for consumer protection measures. Any additional financial outlays are unlikely to be offset by the same level of economic return or volume of tows as would occur in the more populated, regulated areas.

This option would provide clarity for industry and law enforcement officers and remove the disparity that currently exists as the regulatory requirements would apply equally across Queensland. However, the financial disincentive in more rural and remote locations of Queensland may result in unintended consequences of withdrawal of crash towing services from these areas where only a small number of tows occur.

It is not possible to determine the exact number of registered operators that would be affected as not all of the 685 vehicles would be involved in these types of regulated towing services.

### Option 2 – Realign regulated areas to current local government areas

Another option is to simply update the regulated areas to align with the current local government boundaries. Sound rationale exists for regulating these local government areas as not only are they predominately located in South East Queensland where the majority of crashes occur, they also have the highest population density, the largest number of current registered tow truck vehicles and the largest demand for towing services. Where demand dictates, there is an increased need to regulate industry to maintain service standards and address the potential for multiple vehicles competing for towing work, while still providing equity in the provision of towing services.

The proposed future regulated areas include the following local government areas:

Brisbane City Council	Bundaberg Regional Council	Cairns Regional Council
Fraser Coast Regional Council	Gold Coast City Council	Gympie Regional Council
Ipswich City Council	Lockyer Valley Regional Council	Logan City Council
Mackay Regional Council	Moreton Bay Regional Council	Noosa Shire Council
Redland City Council	Rockhampton Regional Council	Scenic Rim Regional Council
Somerset Regional Council	Sunshine Coast Regional Council	Toowoomba Regional Council
Townsville City Council		

**Attachment D** of this Discussion Paper shows the extra areas proposed to be regulated (shown in green), in addition to the current regulated areas (shown in purple).

This system of using local government areas to identify regulated areas would be relatively familiar to industry and less complicated than the use of the current out-dated local government boundaries. While this option would result in some tow truck operators needing to become licensed and tow truck drivers/assistants requiring accreditation, it is likely to only impact on a small number of industry participants located adjacent to the current regulated areas (approx. 48 vehicles state-wide), for example, the areas between the Shire of Noosa and the city of Maryborough. It is also likely that these tow truck operators may already be licensed, and if not, it would provide an opportunity for those operators to extend their towing services to regulated towing. Once again, it is not possible to determine the exact number of registered operators that would be affected as not all 48 vehicles would be involved in these types of regulated towing services.

While the use of local government boundaries could become problematic from time to time as local government amalgamations and de-amalgamations occur, this may be mitigated by TMR having the authority to declare an area regulated or not, until the Regulation could be formally updated.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## **3. Obligations for tow truck licence holders, drivers and assistants**

### **3.1 Tow truck assistants**

#### **What happens in Queensland?**

As at 1 September 2019, there are currently 809 accredited tow truck drivers and 49 accredited tow truck assistants across Queensland.

An accredited tow truck assistant is authorised to travel in a tow truck while the tow truck is attending a scene of a crash, while towing vehicles seized by police at off-street regulated parking areas, and when removing vehicles from private property. They assist the tow truck driver to prepare a motor vehicle for towing, load the vehicle on a tow truck and assist in cleaning up and removing debris from the scene of a crash. Tow Truck Assistants tend to be used more predominantly by larger tow truck licence holders or by heavy vehicle licence holders.

Only accredited tow truck drivers and assistants are permitted to travel in a tow truck to and from the scene or a crash or police seizure, with the exception of the vehicle owner or agent, or the driver or passengers from the towed motor vehicle.

However, tow truck assistants are not permitted to drive a tow truck and therefore, are not currently required to hold a valid driver licence.

To be eligible to become a tow truck assistant, applicants must:

- Be 16 years of age or more at the time of application
- Be medically fit and capable of performing the role
- Have suitable criminal history and continue to maintain suitable conduct requirements.

#### **What happens elsewhere?**

The role of a tow truck assistant is exclusive to Queensland.

#### **What could Queensland do differently?**

Due to the very low number of accredited tow truck assistants, we are seeking feedback on the ongoing need for tow truck assistants within the regulated tow truck industry in Queensland.

Any removal of the tow truck assistant role, however, would require consideration of the current 49 accredited tow truck assistants currently employed in the towing industry. The ability for these tow truck assistants to either transition to accredited tow truck drivers if they hold an appropriate driver licence and can meet the eligibility requirements for a tow truck driver, or the option of removal of their tow truck assistant accreditation over a period of time would need to be considered.

If the role of the tow truck assistant is no longer required, only accredited tow truck drivers, vehicle owners or agents, or the drivers or passengers from the towed motor vehicle, would be permitted to travel in the tow truck.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 3.2 Tow truck driver proficiency

### What happens in Queensland?

To become a tow truck driver in Queensland the applicant must hold an Australian driver licence for the class of vehicle they wish to obtain a tow truck driver certificate for and be able to demonstrate their ability to drive a tow truck.

To demonstrate their ability to drive a tow truck, the applicant is required to either:

1. Hold an Australian driver licence for the class of tow truck vehicle they wish to drive, for a period of three continuous years immediately before making an application to become a tow truck driver. For example, if the tow truck is a vehicle that would require the driver to hold a Heavy Rigid (HR) class of driver licence, the applicant must have held a class HR driver licence for three continuous years before making the application; or
2. If the applicant has not held the class of licence for three continuous years immediately before making the application, they must undergo a tow truck operational test with TMR. The operational test must be conducted in a vehicle of the same class of tow truck they are applying for.

The aim of the operational test is to assess the applicant's ability and knowledge to drive and properly control the tow truck whilst towing a vehicle, position the tow truck to prepare a vehicle for towing, as well as demonstrate their understanding of the proper procedures for towing various classes of vehicle. Currently there is no fee for the applicant to undertake the TMR operational test.

### What happens elsewhere?

No specific requirement exists for tow truck driver applicants to demonstrate their skill or proficiency to drive a tow truck in either Victoria or New South Wales. Applicants in South Australia must undergo a tow truck practical and proficiency test.

Given the financial cost to acquire and fit out a tow truck, it is likely that only someone who is proficient and competent would be tasked with driving and operating a tow truck, and this level of skill is frequently a prerequisite of an employer.

### What could Queensland do differently?

The existing requirement to hold the relevant class of driver licence for three continuous years before making the application may not necessarily equate to proficiency or ability to drive, position or load a tow truck. There is also no minimum or consistent training standard that applies nationally for a tow truck driver.

With roles of this nature, it may be more practical for industry to take the necessary steps to address the training and skills necessary to operate a tow truck, without the need for government intervention or regulation.

We are, therefore, seeking feedback on the removal of both the:

- requirement to hold the relevant class of driver licence for three continuous years before making the application and
- alternative to undertake the tow truck operational test if the relevant licence has not been held.

Applicants will still be required to hold an Australian driver licence of the class of vehicle they wish to obtain a tow truck driver certificate for to be eligible to apply for tow truck driver accreditation.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 3.3 Unaccredited tow truck drivers and assistants

### What happens in Queensland?

As regulated towing work must only be conducted by accredited tow truck drivers using licenced tow trucks, it is expected that licence holders ensure their tow truck drivers are appropriately accredited. The TMR tow truck hotline occasionally receives complaints about unaccredited tow truck drivers attending crashes.

As a result of the introduction of the private property towing reforms in 2018, TMR increased the infringement notice penalty for operating a tow truck without a tow truck licence from \$252 to \$1,566 (increased to \$1,601 from 1 July 2019) and driving a tow truck without tow truck driver accreditation from \$252 to \$783 (increased to \$800 from 1 July 2019).

While there is an offence for driving a tow truck without accreditation, if a tow truck driver operates a tow truck without being accredited, there is no clear obligation on the tow truck licence holder (the employer) to ensure their tow truck driver is accredited. The current provisions of the Act could be clarified to place the obligation on the tow truck licence holder to use accredited tow truck drivers or assistants to perform regulated towing work.

Unaccredited tow truck drivers and assistants are permitted, however undertake other forms of towing, for example, trade or breakdown towing.

### What happens elsewhere?

Most jurisdictions include provisions for tow truck licence holders to be licensed and tow truck drivers to be accredited/certified. New South Wales provisions also extend to restricting licence holders from employing or engaging the services of a person unless they are a certified tow truck driver and a fine of \$1,100 may apply (as at 2018/2019).

### What could Queensland do differently?

We are seeking feedback on whether there needs to be a suitable deterrent to ensure that tow truck licence holders are accountable for only using accredited tow truck drivers and assistants for regulated towing.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 3.4 Towing incentive

### What happens in Queensland?

In Queensland, a person is not permitted to offer an incentive or reward someone if they report the location of a crash. A person is also not permitted to offer reward for obtaining the work of repairing a damaged motor vehicle either for oneself or another party. These provisions were primarily introduced to discourage the use of 'spotters' to report crash locations and lessen the likelihood of the towing and vehicle repair industries from colluding and establishing uncompetitive practices that are not in the best interests of the vehicle owner.

These provisions, however, do not include that a tow truck licence holder, driver or assistant must not offer a benefit or inducement, such as payment or anything of value, as incentive to a motorist in exchange of a tow or authority to tow.

### What happens elsewhere?

New South Wales prohibits inducement for the purposes of obtaining towing work. As with Queensland, Victoria and South Australia does not prohibit incentives being offered to motorists in exchange for a tow.

### What could Queensland do differently?

Tow truck licence holders have enquired whether they are permitted to provide a benefit of any kind to a motorist, either as a courtesy or reward for towing a crashed vehicle (such as a courtesy vehicle, gift voucher or monetary reward). We are therefore seeking feedback on whether you support incentives being prohibited to obtain an authority to tow a crashed vehicle.

Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 4. Fees

### 4.1 Standard tow

A standard tow of a damaged vehicle from a scene of a crash or from private property includes working time of up to 60 minutes. Working time includes preparing the vehicle for towing and cleaning up the scene of a crash, or for private property towing, includes taking reasonable steps to find the owner of the vehicle and preparing the vehicle for towing.

For both private property towing and towing from the scene of a crash, the standard tow includes moving the vehicle to the holding yard or place stated on the towing authority and up to 72 hours of storage in a holding yard.

A licence holder, tow truck driver or assistant must not charge more than the regulated fee for a standard tow. As at 1 July 2019, the standard tow for a private property vehicle is \$255.65 and for a damaged vehicle from the scene of a crash is \$369.30 for the first 50km, then \$7.30 for each kilometre over 50 kilometres.

Where working time exceeds 60 minutes, the tow will not be a standard tow and a licence holder may potentially charge higher fees provided they are not expressly prohibited by the legislation and the fee is reasonable.

#### 4.1.1 Heavy vehicle towing

##### What happens in Queensland?

The standard tow fee is currently the same value irrespective of whether the vehicle towed is a light or heavy vehicle (IE vehicles over 4.5 tonnes gross vehicle mass).

There appears to be general acceptance within the towing industry, however, that when undertaking heavy vehicle towing, the standard tow fee does not apply. This is not the case, and unless the working time exceeds 60 minutes, as may occur for a more complicated tow or where a vehicle salvage is also undertaken, an offence may be committed if a tow truck licence holder charges more than the standard fee. A fine of \$667 may apply.

##### What happens elsewhere?

Crash towing fees for towing of heavy vehicles is unregulated in Victoria.

A review was conducted in New South Wales in 2014 of the maximum towing fees where the *Independent Pricing and Regulatory Tribunal* recommended that heavy vehicle towing fees be deregulated. New South Wales, however, has continued to regulate the maximum fees and provides for two levels of fees for light and heavy vehicle towing.

Heavy vehicle towing fees are not regulated in South Australia due to the complexity of the recovery task.

##### What could Queensland do differently?

We wish to seek feedback on the current fee structure for towing of heavy vehicles over 4.5 tonne gross vehicle mass.

Concerns raised by the heavy vehicle towing industry are that the towing fee for a heavy vehicle is not sufficient to cover operational costs and that heavy vehicle towing is often considered to be non-standard. Also, that the working time defined by a standard tow may be an insufficient measure of actual working time, due to the complexity in undertaking a heavy vehicle tow.

While it is acknowledged that a tow truck used to tow heavy vehicles generally costs more to purchase, operate and maintain, ultimately, the standard tow fee dictates the working time provision of up to 60 minutes, before additional costs may be charged.

The Regulation does allow for a tow truck licence holder to charge more than the standard tow fee if the working time is more than 60 minutes and provided the cost is reasonable in the circumstances. These circumstances may be in the event of a more complex and difficult heavy vehicle tow and should be justified by the licence holder, if required.

In some instances, it may also be difficult to provide an accurate quote for towing of a heavy vehicle in advance of completing the towing authority. However, it is expected that most tow truck licence holders would be aware of what costs to consider and what fees would be appropriate, when completing the towing authority.



Have your say via the online survey at [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au)

## 4.1.2 Maximum storage fees

### What happens in Queensland?

A standard tow from the scene of a crash or from private property includes storing the vehicle in a holding yard for up to 72 hours before a fee applies. Two days written notice that a storage fee will apply must be provided to the vehicle owner or their agent. In the case of a storage fee resulting from a private property tow, a maximum of \$25.55 per day applies after the initial 72-hour period. Prior to the introduction of the private property reforms in 2018, the amount charged for storage of a vehicle towed from private property was not regulated.

While storage fees now apply to private property towing, inequity exists as storage fees for towing from a crash or vehicles seized by police at off-street regulated parking areas are not regulated. TMR has received reports of storage fees, sometimes more than \$100 per day. Vehicle owners may be significantly impacted as a result, as not only do they incur the fee for towing of the vehicle to the holding yard, they may incur storage fees which may accumulate while the vehicle owner is trying to borrow or otherwise source money to pay for towing and storage of their vehicle.

### What happens elsewhere?

In other states, storage fees are consistent for all forms of towing services.

New South Wales storage charges for light vehicles are set at \$23 per day in the Sydney Metropolitan area and \$14 per day in non-metropolitan areas (as at 2018-2019). These capped fees resulted from a review of towing industry fees undertaken by the New South Wales *Independent Pricing and Regulatory Tribunal* who determined that storage fees should be regulated at an appropriate price that encourage more efficient use of storage facilities.

The 2018 review, undertaken by Essential Services Commission in Victoria determined that storage fees should be increased from \$17 per day to a more appropriate fee of \$25 per day (as at 2018-2019) for undercover storage.

In South Australia maximum storage fees are \$15 per day (if the vehicle is uncovered in a locked yard) and \$25 if the vehicle is stored under cover (as at 2018-2019).

### What could Queensland do differently?

We are seeking feedback on the possible introduction of a maximum storage fee for motor vehicles towed from the scene of a crash or the towing of vehicles seized by police at off-street regulated parking areas.

Since the Tow Truck Hotline commenced in April 2017, it has become apparent that some tow truck licence holders may be taking commercial advantage of vehicle owners, whose physical or emotional state following a motor vehicle crash, may prevent them from negotiating a fair price for storage of their vehicle in a holding yard. As a result, some licence holders are charging more than what would be considered reasonable by the government and community.

Capping of storage fees to \$25.55 per day will protect motorists from potential exploitation and maintain consistency and equity in industry fees across the different types of regulated towing services. This fee would be consistent with other jurisdictions and is considered a more reasonable fee for the type of service provided. This proposed regulated fee may also provide incentive to move vehicles from holding yards sooner, providing benefit to both the motorist and tow truck licence holder.

## 4.1.3 Towing authority

Before a vehicle can be towed from the scene of a crash or police seizure, a towing authority must be fully completed and signed to approve the tow. This is a written agreement between the vehicle operator and tow truck driver outlining the terms of the tow, such as delivery destination and scheduled fees that the vehicle operator agrees to accept. In the event of incapacity of the vehicle operator, an authorised officer can sign the towing authority on their behalf.

Being involved in a traffic crash can be a traumatic experience, so any improvement to lessen the emotional stress by streamlining the requirements detailed on the towing authority will benefit the motorist. Additionally, providing clear requirements that tow truck licence holders and tow truck drivers must comply with, will provide improved clarity.

As part of the review process, changes to the towing authority will be undertaken to simplify the towing authority and further align requirements to appropriate penalties in instances where tow truck licence holders and tow truck drivers do not comply with the towing authority requirements.

#### 4.1.4 Prohibited fees

The standard tow fee, as mentioned in section 4.1, is a single fee which incorporates all aspects of the tow and includes not more than 60 minutes working time at a crash scene, or for private property towing, not more than 60 minutes working time on the property. The standard tow fee also includes moving the vehicle to the holding yard or place stated in the towing authority and up to 72 hours of storage.

Working time is defined as preparing the vehicle for towing and cleaning up the scene, or for private property towing, taking reasonable steps to find the owner of the vehicle and preparing the vehicle for towing. Charging of other fees which are part of the everyday business operation of a tow truck licence holder are not permitted. To provide additional clarification to tow truck licence holders, a list of prohibited charges was incorporated into the *Tow Truck Regulation 2009* as part of the private property towing reforms in 2018 to further protect the motorist from being charged extra fees more than the standard tow.

These fees include responding to a request to tow a vehicle or attend a place where a vehicle is located, travelling to where the vehicle is located, taking steps to locate the vehicle owner, using a lifting or loading device on the tow truck, allowing the vehicle owner access to the vehicle at the holding yard (during business hours). Additional fees also include fuel, administrative work, taking or producing photographs, preparing or sending documents or information, storing personal property or moving the vehicle within the holding yard.

Since these prohibited fees were introduced, complaints have periodically been received where excessive amounts have been charged for additional activities associated with towing of motor vehicles, particularly in relation to towing vehicles involved in crashes.

As a result, the list of prohibited fees will be further extended to provide additional clarity to motorists and tow truck licence holders, specifically around these additional charges. These charges include but are not limited to:

- cleaning glass or debris from the road
- cleaning fluid leaks or spills from the road and providing cleaning materials
- cleaning a tow truck, including cleaning any fluid leaks or spills or providing cleaning materials
- the use of additional drivers, assistants or vehicles not used exclusively in the towing function
- any time spent waiting or standing at the scene of a crash
- transporting the owner or passenger of a motor vehicle involved at the scene of a crash
- as otherwise published by the Chief Executive of TMR.

These activities are regular, everyday activities involved in towing vehicles and have always been considered part of a conventional, standard tow.

## Attachment A – Independent investigation recommendations and matters for further consideration

Recommendations	
1	Include private property towing in the tow truck regulatory framework, requiring private property towing to be performed in regulated areas by accredited drivers and assistants using licensed tow trucks.
2	Increase the penalties for operating an unlicensed tow truck, or operating or being employed in connection with the use of a tow truck without a driver or assistant accreditation, to ensure penalties are a deterrent to noncompliance.
3	<p>Require tow truck licensees performing private property towing to have an <i>occupier's approval to remove</i> evidencing an arrangement between the occupier and licensee for the removal of a vehicle, and a copy of the approval to be given to a motorist whose vehicle is removed, if requested.</p> <p>Introduce penalties for removing a vehicle without an <i>occupier's approval to remove</i> and for failing to provide a copy of the approval to a motorist when requested.</p>
4	<p>Require tow truck licensees to notify the Queensland Police Service as soon as practicable after removing a vehicle from private property.</p> <p>Introduce a penalty for failing to notify the Queensland Police Service about the removal of a vehicle as soon as practicable.</p>
5	<p>Impose conduct requirements on tow truck licensees, drivers and assistants for private property towing including:</p> <ul style="list-style-type: none"> <li>prohibiting intimidating, harassing, abusing, insulting, injuring or threatening to injure anyone</li> <li>prohibiting damaging or threatening to damage any property</li> <li>requiring reasonable steps be taken to locate the motorist before loading a vehicle onto a tow truck, and, if the motorist is located, prohibiting loading the vehicle unless the motorist is unable or unwilling to immediately move the vehicle, and</li> <li>if a motorist returns while a vehicle is being loaded but before it is completely loaded, prohibiting the continued loading of the vehicle and requiring the release of the vehicle unless the motorist is unable or unwilling to then immediately move the vehicle.</li> </ul> <p>Introduce a penalty for failing to comply with the conduct requirements for private property towing.</p>
6	<p>Set a maximum fee of \$250 for a standard private property tow.</p> <p>Introduce a penalty for charging more than the maximum fee for a standard private property tow.</p>
7	<p>Set a maximum fee of \$150 for the onsite release of a vehicle loaded onto a tow truck but not removed from the private property.</p> <p>Introduce a penalty for charging more than the maximum fee for an onsite release.</p>
8	<p>Prohibit a vehicle being removed from private property if the onsite release fee has been paid or tendered.</p> <p>Introduce a penalty for removing a vehicle after the onsite release fee has been paid or tendered.</p>
9	Prohibit a call-out fee being charged for a tow truck driver attending private property to perform a private property tow where the motorist is located or returns before the vehicle is loaded onto the truck.

10	Provide that the vehicle owner is liable for fees payable in relation to the removal of a vehicle from private property, and the vehicle must be returned to its owner or their agent after payment of fees.
11	Set a maximum fee of \$25 per day for storing a vehicle that has been removed from private property. Introduce a penalty for charging more than the maximum fee for storing a vehicle removed from private property.
12	Prohibit charging separate fees for incidental activities associated with private property towing such as administration fees or fees for making inventory of personal belongings. Introduce a penalty for charging separate fees for incidental activities.
13	Require that a vehicle removed from private property may only be taken, by the most direct route, to the nearest holding yard of the tow truck licensee.
14	Prohibit a tow truck licensee, driver or assistant from disclosing information about the removal of a vehicle from private property except as permitted under the <i>Tow Truck Regulation 2009</i> .
15	Ensure personal information about a vehicle's owner, driver or other party connected to a regulated towing service may only be disclosed by a tow truck licensee, driver or assistant as permitted under the <i>Tow Truck Regulation 2009</i> .
16	Prevent a person associated with a towing operator who is given information in accordance with the <i>Tow Truck Regulation 2009</i> , from disclosing that information to anyone except as permitted under the <i>Tow Truck Regulation 2009</i> .
17	Develop guidelines outlining minimum signage standards to promote visible, clear, comprehensive and consistent signs. The guidelines should include information regarding sign size, positioning and illumination, content and design such as colours, and text style to enhance readability.
18	Establish a central unit within the Department of Transport and Main Roads that is accountable for oversight of compliance activities. Develop new policies and procedures to support a more rigorous approach to administering, monitoring and enforcing the tow truck regulatory framework.
19	Publish information about complaint management and enforcement on the Department of Transport and Main Roads website every six months, including: <ul style="list-style-type: none"> <li>• number of complaints received and the outcome for each complaint (outcomes should be by category to maintain the privacy of the complainant and respondent)</li> <li>• number of infringement notices issued and matters dealt with by a court, and</li> <li>• number of audits conducted and the outcome.</li> </ul>
20	Provide focussed training to the Department of Transport and Main Roads and Queensland Police Service officers involved in the administration, monitoring and enforcement of the tow truck regulatory framework to ensure appropriate levels of knowledge and understanding.

21	<p>Improve awareness of rights and obligations about private property parking and towing by:</p> <ul style="list-style-type: none"> <li>• running an education and awareness campaign</li> <li>• publishing information on the Department of Transport and Main Roads or other suitable government website, and</li> <li>• incorporating information into Department of Transport and Main Roads' publications such as <i>Your Keys to Driving in Queensland</i> and programs aimed at education for motorists and industry.</li> </ul>
22	<p>Develop information for motorists, occupiers and towing operators regarding any changes to the tow truck regulatory framework as a result of the investigation.</p>

## Matters for further consideration

- |   |   |
|---|---|
| 1 | Review the <i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 2009</i> to ensure the regulatory framework is simple, precise, accessible and appropriately targeted to achieve the policy objectives.  |
| 2 | Review the towing services covered by the <i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 2009</i> to ensure the regulatory framework is appropriately targeted to achieve the policy objectives.   |
| 3 | Review the geographic areas covered by the <i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 2009</i> to ensure the regulatory framework is simple, precise, accessible and coverage is appropriately targeted to achieve the policy objectives.  |
| 4 | Consider whether tow truck licences and accreditations should be issued for longer than one year to balance the need for regulation of the towing industry with the burden regulation imposes on government and industry.   |
| 5 | Consider extending the restrictive two-week period for renewing a tow truck licence or accreditation to increase flexibility and ensure adequate time for applications to be lodged and assessed prior to the licence or accreditation expiring.  |
| 6 | Review all offences under the <i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 2009</i> to ensure penalties appropriately reflect the seriousness of the offence with reference to other offences within tow truck legislation and in comparison to similar offences within transport legislation. |
| 7 | Consider increasing the maximum penalty that may be imposed under the <i>Tow Truck Regulation 2009</i> to ensure compliance with legislative principles and the imposition of sufficiently serious penalties to deter non-compliance.   |
| 8 | Consider the purpose of criminal history checks for applicants and holders of tow truck licences and accreditations and, if necessary, amend the <i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 2009</i> to ensure the suitability requirements clearly achieve the intended objectives.         |

## Attachment B – New offences

Offence	Infringement notice	Maximum court penalty
Holding a vehicle removed from private property other than at an approved holding yard	\$800	\$8,007
Charging in excess of regulated fees	\$667	\$6,672
Charging more than a reasonable amount where the maximum fees do not apply	\$667	\$6,672
Charging a prohibited fee (business hours viewing, call out and other incidental fees)	\$667	\$6,672
Obtaining or attempting to obtain a towing consent when not the holder of a licence	\$667	\$6,672
Failing to carry a towing consent	\$400	\$4,003
Failing to provide a copy of a towing consent to remove to a motorist	\$400	\$4,003
Failing to notify police of a vehicle removed from private property	\$400	\$4,003
Failing to meet conduct requirements in relation to private property towing *An infringement notice is available for abusing or insulting a person at a private property tow.	*\$667	\$6,672
Loading a vehicle for a private property tow without taking reasonable steps to locate the motorist or where the motorist is willing to move the vehicle	n/a	\$6,672
Failing to tell owner vehicle may be released on payment of on-site release fee	\$400	\$4,003
Disclosing information other than to a permitted person	\$667	\$6,672
Towing a vehicle from private property other than to the nearest holding yard by the most direct route	n/a	\$2,669
Licence holder fail to keep records	\$266	\$2,669
Fail to release vehicle before loading onto tow truck is finished	n/a	\$6,672
Fail to release vehicle on payment of on-site release fee	\$667	\$6,672
Licence holder fail to give vehicle owner notice of charges for outside business hours viewing	\$667	\$6,672
Licence holder fail to keep property found in towed vehicle in safe custody	n/a	\$2,669

## Attachment C – Existing offences

Offence		New penalty	Previous penalty
Operating an unlicensed tow truck	Infringement notice	\$1,601	\$252
	Maximum court penalty	\$21,352	\$5,046
Driving a tow truck without driver accreditation	Infringement notice	\$800	\$252
	Maximum court penalty	\$8,007	\$5,046
Charging in excess of regulated fees (including crash towing fees)	Infringement notice	\$667	\$504
	Maximum court penalty	\$6,672	\$2,523
Charging more than a reasonable amount where the maximum fees do not apply	Infringement notice	\$667	N/A
	Maximum court penalty	\$6,672	\$2,523
Failing to meet additional conduct requirements at the scene of a crash	Infringement notice	*N/A \$667	N/A
	Maximum court penalty	\$6,672	\$2,523
Disclosing information other than to a permitted person	Infringement notice	\$667	\$504
	Maximum court penalty	\$6,672	\$2,523
Licence holder fail to keep records	Infringement notice	\$266	\$252
	Maximum court penalty	\$2,669	\$2,523
Licence holder fail to keep property found in towed vehicle in safe custody	Infringement notice	N/A	\$252
	Maximum court penalty	\$2,669	\$2,523

\*An infringement notice is available for abusing or insulting a person at the scene of a crash or private property tow



# Attachment D – Proposed future regulated areas



