

Fact Sheet

September 2019

Private property parking and towing - information for private property owners and occupiers

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 removal of vehicles from private property has been included in tow truck legislation, **now requiring all private property towing in regulated areas of Queensland to be performed by accredited drivers and assistants using licensed tow trucks**. As an owner/occupier of private property, it is vitally important that you understand the changes to your obligations in relation to private property towing. Regulated areas are detailed at www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme

Engaging a towing operator

You can engage a towing operator to monitor and enforce the conditions of your parking area on your behalf. When engaging a towing operator you must ensure you choose an operator who is licensed with the Department of Transport and Main Roads (TMR) and that they employ accredited drivers and assistants using licensed tow trucks. You should also consider whether their services, fees and business practices meet your needs.

You can confirm a tow truck operator is licensed by asking to see their tow truck licence, issued by TMR.

Once you have chosen a licensed tow truck operator, **you must enter into a contract** with them authorising the removal of vehicles parked on the property. Once a written contract is in place a *Towing Consent* form must also be completed. The *Towing Consent* is proof that the contract exists. A *Towing Consent* form is available from www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme/Licence-holder. The *Towing Consent* must be produced to a vehicle owner if they make a request to either the tow truck driver or licence holder.

If you are uncertain whether you have an appropriate arrangement with the tow truck operator to remove vehicles on your behalf, you should obtain independent legal advice.

Signs

Appropriate signage is important to provide motorists fair notice of the parking terms and conditions or that they cannot park on the property. It is recommended that you display clear signs in the parking area, before arrangements are made for unauthorised vehicles to be towed.

To assist you with how to provide clear signage, the *Private property signage guideline* is provided at www.tmr.qld.gov.au/business-industry/Accreditations/Tow-truck-licensing-scheme

Consider other options

If you want to restrict parking you should consider erecting barriers, such as chains or bollards to stop motorists accessing the parking area. Stopping motorists from entering your parking area when your business is closed and erecting barriers that won't hinder your customers, may be a more effective and less contentious way to control parking on your property than removing unauthorised vehicles.

Wheel clamping

You cannot use wheel clamping to enforce the conditions of your parking area. It is illegal to detain a parked or stopped vehicle using an immobilising device including wheel clamps.

Tow truck licence holder and driver conduct

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

If, after taking reasonable steps the vehicle owner or driver cannot be located, the vehicle may be towed by the most direct route to the tow truck licence holders nearest TMR approved holding yard.

The tow truck licence operator and driver 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. They 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 regulated fees

Maximum charges apply under the *Tow Truck Regulation 2009* and include:

- a *standard tow* of a motor vehicle from private property **capped at \$255.65**
- the *on-site release* of a motor vehicle from private property **capped at \$153.40**
- a *daily charge* for storing a motor vehicle towed from private property to the nearest holding yard **capped at \$25.55 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 yard. The property owner must not be charged in addition to the vehicle owner.

Call-out fees and other fees such as 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.

Tow truck operators must not charge more than the regulated fee for a standard tow of a private property motor vehicle (including not charging the property owner in addition to the vehicle owner for towing the vehicle).

Notifying Police when a vehicle is towed

The tow truck licence holder must notify the Queensland Police Service (QPS) that a vehicle has been towed as soon as practicable but no later than 1 hour after a vehicle removed from private property is stored in the holding yard. To notify, the QPS electronic *Tow Notification* must be used. The QPS electronic *Tow Notification* can be accessed 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/licenceholder