

South Australia

# **Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000**

under the *Motor Vehicles Act 1959*

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## Legislative history

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000*.

### 4—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Motor Vehicles Act 1959*;

*Committee* means the Accident Towing Roster Review Committee;

*position on a roster* includes the position originally granted by the Registrar on a roster and any renewal or re-grant of position;

*revoked regulations* means the *Accident Towing Roster Scheme Regulations 1984* revoked by regulation 3;

*roster* means an accident towing roster prepared by the Registrar under Part 3;

*scheme* means the accident towing roster scheme continued under regulation 12;

*storage area* means the part of registered premises set aside for the storage of vehicles that have been towed in compliance with an accident towing direction.

### 5—Forms

- (1) The forms set out in Schedule 1 are prescribed for the purposes of the Act.
- (2) Subject to these regulations, a form set out in Schedule 1 must—
  - (a) be used for the purposes specified in the Schedule; and
  - (b) contain the information required by, and be completed in accordance with, the instructions contained in the forms; and
  - (c) in the case of Form 1 (Notice—Storage Charges)—be delivered personally or by registered post to the owner of the stored vehicle.

### 6—Fees

- (1) The fees set out in Schedule 2 are prescribed for the purposes set out in the Schedule and are payable to the Registrar.

- (2) No fee (or part of a fee) set out in Schedule 2 is refundable or transferable and, despite the provisions of the Act, a person may not receive a concession or reduction of any such fee.
- (3) The scale of fees set out in Prices Order No. 1125 (S.A.) made under the *Prices Act 1948* (see *Gazette 13.7.2000 p135*) is prescribed for the purposes of sections 98ME(15) and 98MF(2)(b) of the Act, but, if that Order has been superseded, then the prescribed scale of fees is that set out in the Order under that Act that is in force for the time being.

## **Part 2—Accident Towing Roster Review Committee**

### **7—Continuation of Accident Towing Roster Review Committee**

- (1) The Accident Towing Roster Review Committee established under the repealed regulations continues in existence.
- (2) The Committee consists of eight members appointed by the Minister, of whom—
  - (a) one (who will be the presiding member of the Committee) must be a person with substantial knowledge of the motor vehicle towing industry nominated by the Minister; and
  - (b) one will be the Commissioner of Police, or the Commissioner's nominee; and
  - (c) one (who will be the Secretary) will be the officer in charge of the Towing Authority, or the officer's nominee; and
  - (d) one will either be a person selected by the Minister from a panel of three candidates nominated by the Motor Trade Association of SA Inc or, in default of a nomination by the Motor Trade Association of SA Inc, a person whom the Minister considers will satisfactorily represent the interests of the motor vehicle towing industry; and
  - (e) one will either be a person selected by the Minister from a panel of three candidates nominated by the Royal Automobile Association of (SA) Incorporated or, in default of a nomination by the Royal Automobile Association of (SA) Incorporated, a person whom the Minister considers will satisfactorily represent the interests of motorists; and
  - (f) one will either be a person selected by the Minister from a panel of three candidates nominated by the Towtruck Operators and Owners Association of South Australia Incorporated or, in default of a nomination by the Towtruck Operators and Owners Association of South Australia Incorporated, a person whom the Minister considers will satisfactorily represent the interests of the motor vehicle towing industry; and
  - (g) two will be persons selected by the Minister to represent community interests.
- (3) At least one member of the Committee must be a woman and one a man.
- (4) If, in the opinion of the Minister, an incorporated body referred to in this regulation, fails to comply with its constitution in a material particular, the Minister may remove the representative of that body from the Committee and replace that representative with a person whom the Minister considers will satisfactorily represent the interests of motorists or of the motor vehicle towing industry (as the case requires).

## **8—Appointment of deputies**

The Minister may appoint a suitable person, with equivalent qualifications, to be a deputy of a member of the Committee and any such person will, while acting in the absence of the member, be taken to be a member of the Committee with all the powers, authorities, duties and obligations of a member of the Committee.

## **9—Functions of Committee**

The functions of the Committee are—

- (a) to make recommendations to the Minister or the Registrar on any matters about which the Act or these regulations require the Committee's recommendations; and
- (b) to advise and make recommendations to the Minister or the Registrar on any matters referred to it by the Minister or the Registrar; and
- (c) to consider the methods and procedures used in the administration of the scheme and to advise and make recommendations to the Minister and the Registrar on any matter pertaining to the administration and operation of the scheme; and
- (d) to inform the Minister and the Registrar of practices within the motor vehicle towing industry.

## **10—Committee proceedings**

- (1) The Committee must meet at such times as are decided by the presiding member.
- (2) Five members of the Committee constitute a quorum.
- (3) Subject to there being a quorum, the Committee may act despite a vacancy in its membership.
- (4) All decisions and recommendations of the Committee will be made by a majority of the members present.

## **11—Committee may establish subcommittees**

The Committee may establish subcommittees and invite any person to appear before it for the purpose of advising or informing the Committee.

# **Part 3—Accident towing roster scheme**

## **12—Continuation of accident towing roster scheme**

- (1) The accident towing roster scheme established under the revoked regulations continues in existence as if it had been established under these regulations.
- (2) The purpose of the scheme continues to be the regulation and control of towtruck operators and towtruck drivers involved in the recovery, towing and storage of vehicles involved in accidents within the declared area and the proper and orderly recovery, towing and storage of such vehicles.

## **13—Functions of Registrar**

- (1) The Registrar is responsible for the administration of the scheme.

- (2) The Registrar—
- (a) must refer to the Committee those matters about which the Committee's recommendation is required by these regulations; and
  - (b) may refer any other matter concerning the administration or operation of the scheme to the Committee for its advice and recommendation.

#### **14—Functions of Commissioner of Police**

The Commissioner of Police is responsible—

- (a) for receiving all requests for the services of a towtruck for any purpose related to the recovery or towing of a vehicle at or from the scene of an accident occurring within the declared area; and
- (b) for the giving of all accident towing directions under the Act.

#### **15—Zones**

- (1) The division of the declared area into zones for general accident towing rosters and zones for heavy vehicle accident towing rosters in operation immediately before the commencement of these regulations continues in operation under these regulations.
- (2) The Minister may, on the recommendation of the Committee, by notice in the Gazette, alter the boundaries of a zone.

#### **16—Rosters**

- (1) The general accident towing roster prepared by the Registrar for each general accident towing zone and the heavy vehicle towing roster for each heavy vehicle accident towing zone in operation immediately before the commencement of these regulations continue in operation as if they had been prepared under this regulation.
- (2) An accident towing roster must be in the form determined by the Minister and contain the following information:
  - (a) the names and contact telephone numbers of the towtruck operators and towtrucks in the roster; and
  - (b) any other information that the Registrar considers necessary.
- (3) The Registrar must, if the Committee so recommends, endorse on any heavy vehicle accident towing roster, recognition of a contract between the owner of heavy vehicles and a towtruck operator for the towing of that owner's heavy vehicles.
- (4) An accident towing roster comes into force at 0001 hours on the first day of the commencement period nominated by the Registrar for that roster and remains in force until 2400 hours on the day nominated by the Registrar.
- (5) A person must not at any time alter, or change in any manner, an accident towing roster or accident towing roster form without the express permission of the Registrar or an officer appointed under section 7 of the Act and authorised by the Registrar to so act.

## **17—Accident towing directions**

- (1) The Commissioner of Police must direct police officers on duty at the Police Communications Centre to—
  - (a) receive all requests for the services of a towtruck for any purpose related to the recovery or towing of a vehicle at or from the scene of an accident that has occurred within the declared area; and
  - (b) give an accident towing direction directly to the towtruck operator next listed on the appropriate accident towing roster for the zone in which the accident occurred; and
  - (c) identify to the towtruck operator the vehicle to be towed.
- (2) However, if—
  - (a) an accident towing direction is to be given to a towtruck operator listed on the heavy vehicle accident towing roster; and
  - (b) there is endorsed on the heavy vehicle accident towing roster recognition of a contract between a towtruck operator and the owner of the vehicle to be towed,

the accident towing direction must be given to that towtruck operator.

## **18—Towtruck operator's turn on roster**

- (1) An accident towing direction given to a towtruck operator constitutes that towtruck operator's turn on the roster.
- (2) No towtruck operator is entitled to receive an accident towing direction, fee, benefit, advantage, reward or compensation in respect of an act or activity that does not result effectively in the towing of a vehicle pursuant to an accident towing direction having been given.
- (3) Despite subregulation (2), if a towtruck operator included on a roster can substantiate that he or she has lost four or more accident tows during a calendar month under circumstances that appear to be unduly harsh or unfair, or as a result of the misuse or abuse of the scheme, he or she may make written application to the Registrar for the reallocation of turns on a roster.
- (4) The Registrar must refer all matters associated with the reallocation of turns on a roster to the Committee to determine the manner and number of turns (if any) to be reallocated to the towtruck operator.

## **19—Offence to give accident towing direction other than in accordance with regulations**

A person must not give an accident towing direction except in accordance with the Act and these regulations.

## Part 4—Registered premises

### 20—Only registered premises to be used for purpose associated with scheme

- (1) A person must not use, or cause or permit to be used, any premises or place for a purpose associated with the operation of the scheme unless the premises are registered under this Part.
- (2) No premises may be registered unless they are approved by the Registrar.
- (3) For the purposes of these regulations, *registered premises* may include a number of buildings or allotments adjacent to, or within the immediate vicinity of, the main place of business of the registered premises.

### 21—Standards and requirements for registered premises

- (1) The Registrar may not approve premises for registration unless, in the opinion of the Committee, the premises—
  - (a) comply with all requirements of the relevant local government council; and
  - (b) are situated wholly within the boundaries of the zone for the roster on which the towtruck operator holds a position or for which the operator has applied for a position; and
  - (c) are premises at and from which the towtruck operator seeking registration of the premises conducts the operator's towing business; and
  - (d) are used by only one towtruck operator or as otherwise recommended by the Committee; and
  - (e) are owned or leased solely by the towtruck operator seeking registration of the premises; and
  - (f) include a permanent building that is suitable for use as business premises; and
  - (g) comprise an area or areas each of which is enclosed by a boundary fence or wall and lockable gates or doors being—
    - (i) of sound structure; and
    - (ii) securely fastened at ground level; and
    - (iii) not less than 2.1 metres in height from the ground; and
    - (iv) considered by the Registrar to be adequate to prevent the entry of unauthorised persons and to prevent the unauthorised removal of vehicles or goods; and
  - (h) have a telephone service; and
  - (i) include a secure office area; and
  - (j) are equipped with operative base station radio equipment suitable for the deployment of mobile units; and
  - (k) include within the boundary fences or walls an area for the storage of vehicles that are towed to those premises in compliance with an accident towing direction which area—



- (i) is at ground level; and
  - (ii) is large enough to store not less than five passenger vehicles for each position on a roster; and
  - (iii) has a well maintained ground surface; and
  - (iv) is constructed and located in such a way that a vehicle can be released from the storage area within a period of 30 minutes of any request being made for such release; and
  - (v) is designated "storage area" by clearly visible signs; and
- (l) comply with any conditions stipulated by the Registrar under these regulations.
- (2) The Registrar may exempt a towtruck operator from compliance with subregulation (1)(b) if the Committee is of the opinion that the towtruck operator can supply a prompt and efficient accident towing service to an adjacent zone.
- (3) Registration of premises approved by the Registrar takes effect on them being entered in a register kept under the Registrar's control.
- (4) A person must not make any structural alteration to any part of registered premises that does not comply with the standards and requirements set out in this regulation.

## **22—Signs**

- (1) A towtruck operator must ensure that a sign clearly displaying the information set out in subregulation (2) is erected and maintained near to the main entrance of the registered premises used by the operator in a position clearly visible from the road.
- (2) A sign erected and maintained for the purposes of subregulation (1) must contain the following information:
  - (a) the trading name of the business;
  - (b) the name of the person in charge of the business;
  - (c) the hours of business;
  - (d) the telephone number for the business.

## **Part 5—Towtrucks**

### **23—Towtrucks to comply with certain standards**

A person must not use a towtruck, or cause or permit a towtruck to be used, for the recovery or towing of any vehicle at or from the scene of an accident unless—

- (a) it has been approved by the Registrar; and
- (b) it is registered under Part 2 of the Act in the name of a person who has been granted a position on a roster by the Registrar; and
- (c) it has the legal capacity to tow the vehicle that is to be towed; and
- (d) it complies with the *Road Traffic Act 1961* and any regulations or rules made under that Act and, if the towtruck is a heavy vehicle, it also complies with the *Heavy Vehicle National Law (South Australia) Act 2013* and any regulations (whether national or local) made under that Act.

## 24—Requirements for approval of towtruck

The Registrar may not approve a towtruck unless—

- (a) it complies with the requirements of the *Road Traffic Act 1961* and any regulations or rules made under that Act and, if the towtruck is a heavy vehicle, it also complies with the requirements of the *Heavy Vehicle National Law (South Australia) Act 2013* and any regulations (whether national or local) made under that Act; and
- (b) it complies with the standards fixed by the Registrar on the recommendation of the Committee; and
- (c) it is fitted with and carries radio equipment which is capable of receiving messages transmitted from the registered premises of the towtruck operator who owns it; and
- (d) it complies with any conditions stipulated by the Registrar under these regulations.

## 25—Surrender of towtruck number plates

If an approved towtruck ceases to be used in the operation of the scheme, the owner of that towtruck must, within the time specified by the Registrar, surrender to the Registrar the number plates issued in respect of that towtruck.

## 26—Registrar must be advised of dealings with approved towtrucks

A person must not sell, transfer, give away, lend, wreck or otherwise dispose of an approved towtruck unless the Registrar has been advised in writing of the intention to do so.

# Part 6—Qualifications of applicants

## 27—Qualifications of applicants

- (1) An applicant for a position on an accident towing roster qualifies for a position if the applicant satisfies each of the following:
  - (a) the applicant is the owner or sole lessee of premises approved by the Registrar under Part 4;
  - (b) the applicant satisfies the Registrar that, for a period of not less than the 12 months prior to the application—
    - (i) he or she has been continuously engaged as a proprietor in the business of towing vehicles for or on behalf of the public; and
    - (ii) the business has provided a satisfactory service at all times and on all occasions;
  - (c) the applicant employs, at each of the premises approved by the Registrar under Part 4, the equivalent of not less than four persons—
    - (i) whose combined hours of work per week amount to a minimum of 160 hours; and
    - (ii) who are engaged in the business of towing, storing and repairing vehicles; and

- (iii) who are paid by the applicant a wage of not less than the applicable award rate or, in the case of a manager, an annual salary commensurate with the manager's duties;
  - (d) the applicant owns not less than two towtrucks for the first position for which the applicant applies on a general accident towing roster and one additional towtruck for every additional position which the applicant may be allocated on the roster;
  - (e) the applicant owns not less than one towtruck for each heavy vehicle accident towing roster on which the applicant applies for a position;
  - (f) in the case of a natural person applicant—
    - (i) the applicant is not an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; and
    - (ii) the applicant has a sound knowledge of the law applicable to motor vehicle towing; and
    - (iii) the applicant is a fit and proper person; and
  - (g) in the case of a body corporate applicant—
    - (i) the body corporate is not in any way in the course of being wound up for the benefit of creditors; and
    - (ii) the body corporate employs, for the purpose of managing its towing business, a person who has adequate experience in the management of a towtruck operator's business and who has a sound knowledge of the law applicable to motor vehicle towing; and
    - (iii) each director, manager and any other person who substantially controls or could substantially control the affairs of the body corporate, is a fit and proper person.
- (2) If the proprietor in a business of towing vehicles for or on behalf of the public is a member of a partnership, each member of the partnership must satisfy the requirements of subregulation (1)(f).

## **28—Applicant to satisfy Registrar as to qualifications**

The Registrar may, for the purpose of determining an applicant's qualifications for a position on an accident towing roster, require an applicant to—

- (a) submit himself or herself or, if the applicant is a body corporate, the manager of the applicant's towing business, to an examination of the provisions of—
  - (i) the *Motor Vehicles Act 1959*; and
  - (ii) the *Road Traffic Act 1961* and the regulations and rules made under that Act relating to towtrucks and towtruck equipment; and
  - (iia) if any of the towtrucks to be used in the applicant's towing business is a heavy vehicle—the *Heavy Vehicle National Law (South Australia) Act 2013* and any regulations (whether national or local) made under that Act relating to towtrucks and towtruck equipment; and

- (iii) these regulations; and
- (iv) any other law applicable to the business of motor vehicle towing; and
- (b) furnish such further information, books, documents and records as the Registrar may require; and
- (c) make any vehicle, towing equipment or premises available for inspection.

## **Part 7—Positions on rosters**

### **29—Applications for positions on rosters**

- (1) The Registrar will determine each application for a position on a roster.
- (2) A person who seeks to be granted a position on a roster must apply to the Registrar in the form and in the manner determined by the Minister.
- (3) Each application must be accompanied by the prescribed fee and such other documents and things as the Registrar may require.
- (4) Subject to subregulation (5), the Registrar must grant an applicant a position on a roster if—
  - (a) the applicant—
    - (i) satisfies the Registrar that the applicant has the qualifications required by these regulations; and
    - (ii) has paid the prescribed fee; and
    - (iii) has otherwise complied with the requirements of the Act and these regulations; and
  - (b) there is a vacant position on the roster for which the applicant qualifies.
- (5) If two or more applicants qualify for a vacant position on a roster, the Registrar must decide the grant of the vacant position by lot in a manner determined by the Registrar.

### **30—Restrictions on granting of positions on rosters**

- (1) A towtruck operator may not be granted—
  - (a) more than one position on any one roster; or
  - (b) a position on more than one general accident towing roster and one heavy vehicle accident towing roster,except in the following circumstances:
  - (c) the Registrar has invited the operator to apply for a position on a roster; and
  - (d) if the Registrar so requires, the operator must, within the time specified by the Registrar, establish and maintain within the zone for which the operator has been invited to apply, premises that qualify for registration under Part 4; and
  - (e) the operator has made an application and paid the prescribed fees.
- (2) If a vacancy for a position on a roster exists, the Registrar may invite a towtruck operator to apply for the position.

### **31—Granting of position on roster**

- (1) Subject to this Part, the first position on a roster granted to a towtruck operator is for a period of one year and each subsequent position on the same roster is granted for a period such that the position will expire at the same time as the first position.
- (2) Each renewal of a position is for a period of one year.
- (3) However, a towtruck operator's position or positions on a roster lapse immediately if—
  - (a) the operator leases, sells, transfers or disposes of his or her business, or the operation of the business, to some other person; or
  - (b) the operator ceases to carry on business as a towtruck operator.
- (4) A towtruck operator must give the Registrar written notice of any change in circumstances that would result in the lapsing of a position held by the operator on a roster under this regulation within three days of the change.
- (5) The Registrar must, if a towtruck operator—
  - (a) leases, sells, transfers or disposes of his or her business, or the operation of the business, to some other person; or
  - (b) operator ceases to carry on business as a towtruck operator,transfer the position or positions held on a roster by the operator to the other person if that other person has made application, and qualified, under this Part for a position on a roster.

### **32—Deemed vacancies on rosters**

If the Committee advises the Registrar that a vacancy on a roster exists, then it will be taken that there is such a vacancy.

### **33—Renewals**

- (1) The Registrar must forward an application for renewal of a position on a roster to a towtruck operator's registered premises at least two calendar months before the expiration of the operator's position.
- (2) The Registrar must renew a towtruck operator's position (or positions) if—
  - (a) the Registrar receives a duly completed application for renewal together with the prescribed fee at least 28 days prior to the expiration of the position; and
  - (b) the applicant continues to have the qualifications required by this Part and to comply with the requirements of the Act and these regulations; and
  - (c) a vacancy exists for the position for which renewal is applied.
- (3) The Registrar may accept a late application, on the payment of the prescribed fee, if the application is made not less than 14 days before the expiry date.
- (4) The Registrar must, when considering the renewal of positions on a specific roster, give priority to qualified towtruck operators currently holding a position on the roster for that zone.

### **34—Registrar may defer grant or renewal in certain circumstances**

Despite regulation 31, the Registrar may defer the grant or renewal of a position on a roster pending determination of the applicant's qualification or the existence of a vacancy.

### **35—Authorisation Notices**

- (1) The Registrar must, on granting a towtruck operator a position on a roster, send to the towtruck operator an Authorisation Notice in a form determined by the Minister containing the following information:
  - (a) the accident towing roster and the zone to which the operator has been allocated;
  - (b) the towtrucks approved for use by the operator for accident towing;
  - (c) the registration number issued to each of the operator's approved accident towtrucks;
  - (d) the address of the registered premises at and from which the operator is authorised to operate;
  - (e) any other information that the Registrar considers necessary.
- (2) The towtruck operator must display the Authorisation Notice as directed by the Registrar.
- (3) An Authorisation Notice must be immediately surrendered to an authorised officer attending at the registered premises who presents a notice signed by the Registrar requiring surrender of the Authorisation Notice.

### **36—Surrender of positions**

- (1) A towtruck operator may surrender a position on a roster.
- (2) A towtruck operator intending to surrender a position on a roster must notify the Registrar in writing of the intention not less than seven days prior to the date that the surrender is to take place.

## **Part 8—Duties and conduct of towtruck operators**

### **37—Duties**

- (1) In addition to any other duty imposed by the Act and these regulations, a towtruck operator holding a position on an accident towing roster must—
  - (a) be ready and able to receive and comply with an accident towing direction at all times each day; and
  - (b) comply promptly with every accident towing direction given; and
  - (c) conduct the towing business at and from the registered premises; and
  - (d) keep the storage area for motor vehicles that have been towed to the registered premises pursuant to an accident towing direction open for business for not less than eight hours between 7 a.m. and 6 p.m. each day, other than—
    - (i) Saturday; and

- (ii) Sunday or any other public holiday; and
  - (iii) the day in each month that the towtruck operator has rostered as a day off for persons employed at the premises; and
- (e) maintain, at all times, a telephone service to the registered premises; and
- (f) ensure that, at all times at the registered premises or at the premises to which telephone calls have been diverted, there is an employee or other adult person directly responsible to the towtruck operator to—
  - (i) answer all telephone, radio and personal calls; and
  - (ii) provide necessary information; and
  - (iii) carry out any effective action that the operator would be required to give or take; and
- (g) at all times at each of the registered premises, employ the equivalent of not less than four persons—
  - (i) whose combined hours of work per week amount to a minimum of 160 hours; and
  - (ii) who are engaged in the business of towing, storing and repairing vehicles; and
  - (iii) who are paid by the operator a wage of not less than the applicable award rate or, in the case of a manager, an annual salary commensurate with the manager's duties; and
- (h) have at all times at the registered premises or within the zone for which the towtruck operator holds a position, not less than one approved accident towtruck for the first position held on a roster and one additional towtruck for each additional position that—
  - (i) is in operating order; and
  - (ii) is capable of towing a vehicle of the type designated by the Registrar for which the towtruck operator is rostered; and
  - (iii) can be despatched to the scene of an accident immediately on receipt of an accident towing direction; and
- (i) provide at all times a prompt and efficient towing and storage service; and
- (j) not cause or permit any person, other than a person employed by the towtruck operator, to drive or proceed by any means to the scene of an accident in response to an accident towing direction; and
- (k) not tow a vehicle or cause or permit a vehicle to be towed at or from the scene of an accident with a towtruck that does not have the legal capacity to tow such vehicle except in compliance with a direction given by an authorised officer or police officer at the scene of an accident; and
- (l) only permit or cause a person who is the holder of a current towtruck driver's certificate to drive or operate any towtruck; and
- (m) exercise proper supervision and control over the towtruck operator's employees and all other persons acting in the course of the business; and

- (n) maintain at all times the whole of the towtruck operator's registered premises in good repair and clean condition; and
  - (o) store every vehicle towed to the registered premises in compliance with an accident towing direction in the storage area; and
  - (p) use the storage area for no purpose other than the storage of vehicles towed in compliance with accident towing directions; and
  - (q) keep at all times each vehicle being towed or that has been towed in compliance with an accident towing direction, or stored in the storage area, and all accessories and items in or about every such vehicle, safe from damage, loss or theft; and
  - (r) not establish, erect or maintain, or cause or permit to be established, erected or maintained, equipment of any kind capable of receiving, transmitting, intercepting or overhearing a message by means of wireless telegraphy on a frequency allocated under Commonwealth law for use by the police, an emergency or taxi service, or some other towtruck operator; and
  - (s) maintain at all times a policy of insurance with a recognised insurer in respect of all liability that may be incurred by the towtruck operator in respect of any loss, theft or damage to any vehicle, vehicle accessory or any item in or about a vehicle being towed or that has been towed in compliance with an accident towing direction; and
  - (t) charge no more than the prescribed fees for the recovery, towing, storage and quotation for repair of a vehicle involved in an accident, and for mileage; and
  - (u) comply at all times with the lawful directions given by the Minister, the Registrar, an authorised officer or a police officer; and
  - (v) comply at all times with—
    - (i) the Act and the applicable regulations made under the Act; and
    - (ii) the *Road Traffic Act 1961* and the regulations and rules made under that Act; and
    - (iia) the *Heavy Vehicle National Law (South Australia) Act 2013* and any regulations (whether national or local) made under that Act in relation to any towtruck used in the towtruck operator's business that is a heavy vehicle; and
    - (iii) the laws applicable to motor vehicle towing.
- (2) A towtruck operator who is granted a position on a roster must agree in writing to perform and accept the duties required under this regulation.
- (3) A towtruck operator holding a position on an accident towing roster is responsible for the acts and omissions (including wrongful acts and omissions) of every employee and every other person while the employee or person is or should be engaged in the performance of work relating to the operator's accident towing business.



### **38—Registrar may authorise telephone calls to be diverted from registered premises**

- (1) The Registrar may authorise a towtruck operator to have telephone calls diverted, during times when the operator is not required to keep his or her premises open, from the registered premises to another place which has the same telephone number.
- (2) If a towtruck operator has an accident towing direction diverted from the registered premises to another place, the operator—
  - (a) is responsible for compliance with the Act and these regulations as if he or she had received such accident towing direction in the first instance; and
  - (b) must advise the Registrar in writing of the location of the other place to where accident towing directions are to be diverted.

### **39—Stipulated conditions**

- (1) The Registrar may, on the recommendation of the Committee, stipulate such conditions as the Registrar thinks necessary, with which towtruck operators applying for or holding a position on a roster must comply.
- (2) The Registrar must notify each towtruck operator who may be affected by a stipulated condition in writing of the condition.

## **Part 9—Discipline**

### **40—Registrar's powers**

- (1) If, after receiving a report from an authorised officer, the Registrar considers that there may be proper cause to discipline a towtruck operator, the Registrar must refer the matter to the Committee.
- (2) If the Committee recommends that disciplinary action be taken and the Registrar is satisfied that there is proper cause to discipline the towtruck operator, the Registrar may do one or more of the following:
  - (a) reprimand the operator;
  - (b) reduce the number of positions held by the operator on any roster;
  - (c) suspend the operator from a roster for a specified time or until the operator has fulfilled a requirement or satisfied a condition;
  - (d) remove the operator from a roster and specify a date before which the operator may not reapply for a position on a roster;
  - (e) remove the operator from a roster for an unspecified time;
  - (f) remove the operator from a roster permanently.
- (3) Without limiting the Registrar's power to discipline a towtruck operator more severely, the Registrar must—
  - (a) if satisfied that there is proper cause to discipline a towtruck operator who has been reprimanded on two separate occasions within the previous year—suspend the operator for not less than three months from all rosters on which the operator holds a position;

- (b) if satisfied that there is proper cause to discipline a towtruck operator who has been previously suspended or removed from a roster within the previous three years—suspend the operator for not less than six months from all rosters on which the operator holds a position.

#### **41—Registrar may grant removed operator position on roster**

The Registrar may grant a towtruck operator who has been removed from a roster another position on a roster if satisfied that—

- (a) the time before which the operator may not reapply for a position, specified by the Registrar or the District Court, has elapsed; and
- (b) the operator qualifies for a position on the roster; and
- (c) the operator has rectified any matter which was a cause for the operator being disciplined that is able to be rectified; and
- (d) there is a vacant position on an appropriate roster; and
- (e) the operator's re-inclusion on a roster would not prejudice the efficient operation of the scheme.

#### **42—Cause for disciplinary action**

There is proper cause for the Registrar to discipline a towtruck operator if the operator—

- (a) has improperly obtained a position on a roster; or
- (b) has furnished any information, orally or otherwise, that is false or misleading in a material particular; or
- (c) has failed to comply with an accident towing direction or a direction given by an authorised officer or police officer under the Act; or
- (d) has contravened or failed to comply with any of the provisions of the *Radiocommunications Act 1992* (Commonwealth), as amended from time to time, or an Act of the Commonwealth enacted in substitution for that Act; or
- (e) has habitually contravened the provisions of the *Road Traffic Act 1961* or the regulations or rules made under that Act; or
- (ea) has habitually contravened the provisions of the *Heavy Vehicle National Law (South Australia) Act 2013* or any regulations (whether national or local) made under that Act; or
- (f) has been convicted of an offence involving any dishonest, threatening or violent conduct or any other offence involving the use of a motor vehicle; or
- (g) has, in the course of business as a towtruck operator or vehicle repairer, acted in a dishonest, unfair, unethical or improper manner by—
  - (i) failing to observe or contravening any duty or obligation under any Act or law of the State or Commonwealth; or
  - (ii) by failing to have due and proper regard for the rights, duties or obligations on the part of any other person under any Act or law of the State or Commonwealth; or

- (h) has caused, or has attempted to cause, a person to do or omit to do anything relating to—
  - (i) the towing, storage or repair of a vehicle; or
  - (ii) the administration or operation of the scheme,by means of any misrepresentation, intimidation, threat, violence, persistent soliciting or by any other unethical, improper or unfair device, means or conduct; or
- (i) has contravened or failed to comply with the Act, these regulations, or a condition stipulated or imposed by the Registrar under these regulations.

## **Part 10—Authorities to tow**

### **43—Authorities to tow**

- (1) The Registrar must, on payment of the prescribed fee, issue each towtruck operator holding a position on a roster with books of forms for use as authorities to tow.
- (2) The forms—
  - (a) will be in the form determined by the Minister; and
  - (b) will be issued in triplicate in books on the cover of which is written the registration number of the towtruck for which the forms are to be used; and
  - (c) may only be used for the towtruck for which they are issued.
- (3) A person must not use any other document or thing as an authority to tow.

### **44—Completion of authorities to tow**

- (1) A towtruck driver who has obtained an authority to tow or the towtruck operator who employs the driver must—
  - (a) write in the appropriate place on the duplicate and triplicate copies of the authority to tow the following information:
    - (i) all services performed and additional kilometres travelled after leaving the scene of the accident for which the towtruck operator intends to charge a fee;
    - (ii) the fee charged for each service;
    - (iii) the total amount of fees charged;
    - (iv) the registration number of any vehicle lent or hired by the operator or driver to the person who gave the authority to tow or the owner of the vehicle recovered or towed; and
  - (b) give the duplicate copy of the authority to tow to the Registrar within 24 hours of the authority to tow being given.
- (2) The burden of proving that the duplicate copy of the authority to tow has been given to the Registrar lies with the towtruck operator.

## 45—Loss of or damage to authority to tow

- (1) If an authority to tow or a copy of an authority to tow is lost, destroyed, rendered unusable, illegible or cancelled—
  - (a) the towtruck operator or driver who has or had possession of it must—
    - (i) write, date and sign on the authority to tow (or in the case of loss, destruction or mutilation, by separate explanatory report) an explanation of that happening; and
    - (ii) as soon as practicable but, in any case, within 10 hours of that happening, deliver the original and copies of the authority to tow (or the explanatory report) to the registered premises of the towtruck operator to whom the authority to tow was issued; and
  - (b) the towtruck operator to whom it was issued must deliver the authority to tow and duplicate copy (or the explanatory report) to the Registrar within 24 hours of receiving or writing the explanation.
- (2) The burden of proving that the duplicate copy of the authority to tow and duplicate copy (or the explanatory report) have been delivered to the Registrar lies with the towtruck operator.

## Part 11—Records

### 46—Records

- (1) A towtruck operator must keep for not less than three years at the operator's registered premises in good order and condition the following records (*required records*):
  - (a) in chronological order—all forms, notices and documents required by the Act or these regulations to be made, completed or kept;
  - (b) in alphabetical order—lists of—
    - (i) the names of employees; and
    - (ii) the job classification of each employee; and
    - (iii) the number of hours worked each week by each employee; and
    - (iv) the weekly wage or salary and all other remuneration paid to each employee; and
    - (v) the commencement and termination dates of the employment of each employee.
- (2) A towtruck operator who formerly held a position on an accident towing roster, or who is suspended from a roster, must—
  - (a) in the case where he or she sells or otherwise transfers the business to another towtruck operator who holds or is granted a position on a roster—deliver the required records to the second towtruck operator who must keep them in accordance with subregulation (1); and
  - (b) in any other case—continue to keep the required records.

- (3) A towtruck operator who continues to keep required records under subregulation (2)(b)—
- (a) may keep and make them available for inspection at a place within the declared area other than the formerly registered premises; and
  - (b) must give the Registrar written notice of the place where the records are kept within seven days of the operator ceasing to carry on the business of accident towing.
- (4) A person who—
- (a) fails to keep required records in accordance with this regulation; or
  - (b) falsifies, mutilates or destroys required records; or
  - (c) causes or permits another person—
    - (i) to fail to keep required records in accordance with this regulation; or
    - (ii) to falsify, mutilate or destroy or remove from his or her control, required records,
- is guilty of an offence.
- (5) A towtruck operator may, where reasonable cause exists, keep required records at a place provided by the Registrar.

## **Part 12—Miscellaneous**

### **Division 1—Police powers**

#### **47—Decisions as to zones**

- (1) If there is any doubt as to the zone for which an accident towing direction is to be given, the officer in charge of the Police Communications Centre at the time the direction is to be given will decide which zone applies.
- (2) In making such a decision, the police officer may—
- (a) assume that, where the boundary of the zone falls on a road, railway or river, the mid-point of the width of that road, railway or river is the boundary;
  - (b) base the decision on the place at which the damaged vehicle came to rest and not the point of impact;
  - (c) consider the welfare and safety of members of the public;
  - (d) consider traffic requirements and congestion generally.
- (3) A decision made pursuant to this regulation may not be challenged.

#### **48—Accident towing directions**

- (1) If the officer in charge of the Police Communications Centre at the time is of the opinion that there has been or may be a delay in a towtruck operator complying with an accident towing direction, or that a towtruck may not have the capacity to tow the vehicle to be towed, the officer may—
- (a) cancel the accident towing direction previously given; and

- (b) give an accident towing direction to the next appropriate towtruck operator on the roster for the zone in which the accident occurred.
- (2) If an accident towing direction is cancelled—
  - (a) the towtruck driver whose direction was cancelled must be notified of the cancellation as soon as reasonably possible; and
  - (b) the cancellation and subsequent direction must be recorded on the roster.
- (3) A towtruck operator is not entitled to receive an accident towing direction in place of the cancelled direction or any fee, advantage, reward or compensation when an accident towing direction given to the operator is cancelled.

#### **49—Attendance of other recovery vehicle may be called for in certain circumstances**

- (1) If the holder of a current towtruck certificate attending the scene of an accident in response to an accident towing direction forms the opinion that a vehicle, other than an approved accident towtruck, is required for a purpose related to the recovery or towing of a damaged vehicle, he or she may (with the approval of the officer in charge of the Police Communications Centre at the time or an authorised officer) cause that other vehicle to attend the scene of that accident and recover or tow the damaged vehicle.
- (2) The attendance, identity and owner of that other vehicle, and any other relevant fact, must be recorded on the accident towing roster and the authority to tow.

### **Division 2—General**

#### **50—Exemptions**

- (1) The Registrar may exempt the Crown, an agent of the Crown, or any other person from compliance with such provisions of Part 3C of the Act or these regulations as the Registrar specifies for such periods and on such conditions as the Registrar may specify.
- (2) However, the Registrar may not give an exemption in respect of the requirement to call a towtruck under the accident towing roster scheme, except for the towing of vehicles in conjunction with the heavy vehicle towing roster.
- (3) All vehicles (including court exhibits) under the control of the Commissioner of Police are exempt from compliance with Part 3C of the Act and these regulations.

#### **51—Immunity from liability**

- (1) A person engaged in the administration or enforcement of these regulations incurs no liability for an honest act or omission in the exercise or discharge or purported exercise or discharge of a power, duty or function under these regulations.
- (2) A liability that would, but for subregulation (1), lie against the person lies against the Crown.

## **52—Prohibition on use of official telephone number**

Subject to these regulations, a person must not use, or cause or permit to be used, an official telephone number allocated for use in conjunction with the operation of the scheme in any advertising, display, correspondence or communication unless the Registrar has, on the recommendation of the Committee, given written permission to do so.

## **53—Towtruck certificate (section 98ML of Act)**

The holder of a current towtruck certificate or current temporary towtruck certificate must securely fix the certificate in a conspicuous position on the clothing covering the left side of his or her chest and must ensure that it is clearly visible at all times when he or she is driving or riding in or on a towtruck, operating the equipment of a towtruck or in attendance at the scene of an accident.

## **54—Complaints**

Subject to section 98PD of the Act, all complaints or reports concerning—

- (a) the administration or operation of the scheme; or
- (b) the conduct of a towtruck operator who holds a position on a roster; or
- (c) an employee or person acting in the course of the business of a towtruck operator who holds a position on a roster,

must be lodged with the Registrar.

## **55—General offence**

A person who is in breach of, or who fails to comply with, a regulation is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$310.

## **Schedule 1—Forms**

Form 1	Notice—storage charges
Form 2	Contract for quotation for repair of motor vehicle

## Form 1

### Notice—storage charges

TO (*insert name*) .....  
of (*insert address*) .....  
.....

Claim is made for the sum of \$ .....  
being charges for ..... days storage of vehicle,  
Registered Number .....  
Make .....  
Type .....  
Odometer Reading .....  
presently stored by (*insert business name*) .....  
at (*insert business address*) .....  
.....  
Telephone No: .....

You are advised that failure to arrange removal of the vehicle from the business premises will make you liable for further storage charges at the rate of \$ ..... a day.

Signature: .....

Title: .....

Date: .....

*Notes—*

- 1 *Charges may not exceed the fees prescribed in the current applicable Price Order under the Prices Act 1948.*
- 2 *This notice must be either delivered personally to the owner of the vehicle or sent by registered post to the address of the owner of the vehicle.*



## Form 2

### Contract for quotation for repair of motor vehicle

I (*insert full name*) .....  
of (*insert address*) .....  
.....

Business telephone number: .....

Private telephone number: .....

\*being/\*for the owner of the following motor vehicle:

Registered Number: .....

Make: .....

Colour: .....

Type: .....

Odometer Reading: .....

Authorise a *Quotation for Repair* to be prepared by—

(*insert business name*) .....

of (*insert business address and phone no*) .....

.....

on the understanding that fees charged, if any, will be in compliance with the relevant current Prices Order as published in the Government Gazette.

I acknowledge that I have been given a duplicate copy of this contract.

Signature: .....

Date: .....

Time: .....

#### Note—

**This contract is unenforceable unless the owner of the motor vehicle or some person duly authorised to act on behalf of the owner confirms the contract not less than 6 hours nor more than 14 days after the signing of the contract.**

Confirmed by (*print full name*) .....

of (*insert address and phone no*) .....

.....

Signature of authorising person: .....

Title: .....

Date: .....

Time: .....

\* *Strike out what is inapplicable*

## Schedule 2—Fees

The fees set out below are payable to the Registrar.

### Towtruck certificates

1 On application for a towtruck certificate \$59

2	For a practical test for a towtruck certificate	\$60
3	For a towtruck certificate—	
	(a) when the holder will be proceeding to and attending at the scene of an accident	\$166 per year
	(b) when the holder will not be proceeding to or attending at the scene of an accident	\$83 per year
4	For a temporary towtruck certificate	\$59
5	For a duplicate towtruck certificate	\$59

**Accident towing roster scheme**

6	On application for the first position on a roster	\$469
7	On application for renewal of each position on a roster	\$277
8	On late application for renewal of a position on a roster	\$234
9	On application for re-inclusion on a roster	\$469

**Books of forms**

10	For authority to tow forms (book of 10)	\$227
11	For direction to remove vehicle forms (book of 20)	\$12
12	For quotation to repair vehicle contract forms (book of 80)	\$12
13	For storage notice forms (book of 20)	\$12

## **Schedule 3—Transitional provisions**

### **1—Accident Towing Roster Committee**

The members, and any deputies of members, of the Accident Towing Roster Committee under Part 2 of the revoked regulations immediately before the commencement of these regulations will continue to hold office as if they had been appointed as members, or deputies of members, of the Accident Towing Roster Committee under Part 2 of these regulations.

### **2—Registered premises**

Premises that were registered premises under Part 4 of the revoked regulations immediately before the commencement of these regulations will be taken to have been registered under Part 4 of these regulations.

### **3—Approved towtrucks**

The approval of a towtruck by the Registrar under Part 5 of the revoked regulations in operation immediately before the commencement of these regulations will continue to operate as if it had been approved under Part 5 of these regulations.

### **4—Qualification of applicants for position on accident towing roster**

A person who qualified under Part 6 of the revoked regulations for a position on an accident towing roster immediately before the commencement of these regulations will be taken to have qualified for a position on an accident towing roster under Part 6 of these regulations.

## **5—Positions on rosters**

A person granted a position on a roster under Part 7 of the revoked regulations immediately before the commencement of these regulations will be taken to have been granted the position on the roster under Part 7 of these regulations.

## **6—Authorisation notices**

An authorisation notice issued under Part 7 of the revoked regulations in operation immediately before the commencement of these regulations will continue to operate as if it had been issued under Part 7 of these regulations.

## **7—Stipulated conditions**

Conditions stipulated by the Registrar under Part 8 of the revoked regulations in operation immediately before the commencement of these regulations will continue to operate as if they had been stipulated under Part 8 of these regulations.

## **8—Books of forms**

Books of forms obtained from the Registrar under the revoked regulations may be used for the purposes of these regulations.

## **9—Exemptions**

An exemption given under Part 12 of the revoked regulations in force immediately before the commencement of these regulations will continue in force as if it had been given under these regulations.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Motor Vehicles (Accident Towing Roster Scheme) Regulations 2000* revoked the following:

*Accident Towing Roster Scheme Regulations 1984*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2000	195	<i>Gazette 24.8.2000 p802</i>	1.9.2000: r 2
2002	212	<i>Gazette 14.11.2002 p4199</i>	14.11.2002: r 2
2007	50	<i>Gazette 26.4.2007 p1408</i>	30.4.2007: r 2
2008	71	<i>Gazette 5.6.2008 p1969</i>	1.7.2008: r 2
2009	83	<i>Gazette 4.6.2009 p2442</i>	1.7.2009: r 2
2013	305	<i>Gazette 19.12.2013 p5125</i>	10.2.2014: r 2
<b>2014</b>	<b>71</b>	<b><i>Gazette 5.6.2014 p2309</i></b>	<b>1.7.2014: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>rr 2 and 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>30.4.2007</i>
r 4		
<i>inspector</i>	<i>deleted by 50/2007 r 4</i>	<i>30.4.2007</i>
Pt 3		
r 17		
r 17(1)	varied by 50/2007 r 5	30.4.2007
Pt 5		

r 23	varied by 305/2013 r 4	10.2.2014
r 24	varied by 305/2013 r 5	10.2.2014
Pt 6		
r 28	varied by 305/2013 r 6	10.2.2014
Pt 7		
r 29		
r 29(4)	varied by 212/2002 r 3(a)	14.11.2002
r 29(5)	inserted by 212/2002 r 3(b)	14.11.2002
r 30	substituted by 212/2002 r 4	14.11.2002
r 35		
r 35(3)	varied by 50/2007 r 6	30.4.2007
Pt 8		
r 37		
r 37(1)	varied by 50/2007 r 7(1), (2)	30.4.2007
	varied by 305/2013 r 7	10.2.2014
Pt 9		
r 40		
r 40(1)	varied by 50/2007 r 8	30.4.2007
r 42	varied by 50/2007 r 9	30.4.2007
	varied by 305/2013 r 8	10.2.2014
Pt 12		
r 49		
r 49(1)	varied by 50/2007 r 10	30.4.2007
Sch 2	substituted by 71/2008 r 4	1.7.2008
	substituted by 83/2009 r 4	1.7.2009
	<b>substituted by 71/2014 r 4</b>	<b>1.7.2014</b>

## Historical versions

14.11.2002  
30.4.2007  
1.7.2008  
1.7.2009  
10.2.2014