

Transport (Tow Truck Reform) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purpose of the Act.

Clause 2 provides for the commencement of the Act.

PART 2—AMENDMENTS RELATING TO TOW TRUCKS

Clause 3 changes definitions in section 86 (1) of the **Transport Act 1983** (“the Act”). The clause inserts the following new definitions—“accident”, “accident scene”, “accident tow truck”, “accident towing”, “heavy accident tow truck”, “tow truck licence” and “trade towing”. The definition of “controlled area” is substituted and amendments are made to the definitions of “allocation centre” and “authority to tow”. Definitions are also inserted for “level 1 offence” and “level 2 offence.”

Clause 4 inserts new sections 172 to 172N into the Act in substitution for existing section 172 so as to introduce new categories of tow truck licences and associated matters.

New section 172 provides for matters relating to trade towing licences.

New section 172A provides for matters relating to heavy accident tow truck towing licences.

New section 172B provides for matters relating to accident towing licences.

New section 172C provides that a tow truck licence only authorises the holder of the licence to operate one tow truck. The section also specifies statutory licence conditions.

New sections 172D, 172E, 172F, 172G and 172H set out the procedures for the issue and grant of new towing licences.

New section 172I enables applicants for accident towing licences and heavy accident towing licences to apply to the Administrative Appeals Tribunal for a review of a decision by the licensing authority to refuse to grant a licence.

New section 172J provides that persons convicted of the offences specified in that section are ineligible to hold an accident towing licence or a heavy accident towing licence.

New section 172K provides that a corporation is not eligible to hold an accident towing licence or heavy accident towing licence if any of its directors are not eligible to hold such licences.

New section 172L provides for the creation of allocation centre roster entitlements.

New section 172M details the effect of the creation of a new controlled area on certain tow truck licences.

New section 172N is a savings provision relating to existing tow truck licence holders.

Clause 5 makes minor consequential amendments to the Act.

Clause 6 amends the Act to provide a right of review by the Administrative Appeals Tribunal on a declaration by the licensing authority under new section 172J (7).

Clause 7 amends the Act to insert new sections 174C to 174E.

New section 174C provides for the creation of allocation centre roster entitlements.

New section 174D provides for the transfer of roster entitlements before 1 October 1995.

New section 174E contains transitional provisions relating to existing tow truck licence holders.

Clause 8 amends section 175 of the Act in relation to implied conditions of accident towing licences.

Clause 9 inserts new sections 176 (2) (c) and (d) into the Act which provides for offences in relation to unauthorised towing or storage of vehicles.

Clause 10 amends section 176 of the Act to increase penalties for unauthorised repair work on motor vehicles.

Clause 11 inserts new section 176A into the Act to detail the obligations on repairers in respect of towed vehicles. The new section establishes several new offences.

Clause 12 substitutes section 177 of the Act with new sections 177–177c.

New section 177 provides for offences at accident scenes (e.g. touting for towing, storage or repair) and in relation to the repair or the preparation of a quotation in relation to a damaged motor vehicle.

New section 177A provides a cooling-off period for certain towing related repair agreements.

New section 177B provides that an owner of a damaged motor vehicle is not liable for the cost of repairs carried out at an unauthorised place.

New section 177C provides offences in relating to failing, etc to release a towed vehicle.

Clause 13 amends the Act in relation to the power to revoke or suspend licences.

Clause 14 inserts new sections 181A –181C into the Act.

New section 181A provides for the suspension or cancellation of an accident towing licence or heavy accident towing licence where licence holders are charged or are convicted of a level 1 or 2 offence.

New section 181B provides for the Secretary of Transport to keep a Demerits Register for the recording of demerit points that might be incurred by tow truck licence holders and holders of accident towing driver authorities. The circumstances in which demerit points are incurred and their number are to be set out in regulations

made under the Act. The section also provides for periods of suspension of licences and authorities where specified numbers of points are incurred.

New section 181C provides rights of review on specified grounds to the Administrative Appeals Tribunal of a decision of the Secretary to suspend a licence or authority under section 181B.

Clause 15 amends section 182 of the Act to enable the transfer of heavy accident and accident tow truck licences.

Clause 16 inserts new sections 182A–182G into the Act.

New section 182A specifies the circumstances in which a person must hold an accident towing driver authority.

New section 182B sets out procedural matters for the grant of an accident towing driver authority.

New section 182C specifies that when the holder of an accident towing driver authority is driving an accident tow truck or is at an accident scene that person must carry their driver authority. The new section also sets out other obligations of authority holders including producing an authority for inspection, providing information in relation to relevant tow truck licences, following mandatory procedures associated with being the holder including obligations to return the authority in specified circumstances.

New section 182D provides that a person is not eligible to hold an accident towing driver authority while their driver licence is suspended or while they are disqualified from driving following cancellation of that licence. The provision also details other circumstances in which commission of traffic offences affects a person's eligibility to hold an accident towing driver authority.

New section 182E provides for the suspension or cancellation of an accident towing driver authority where serious offences have been committed by the holder (see new section 181A inserted by clause 14 subject to its interpretation and modification by new section 182E).

New section 182F provides for the issue of a duplicate accident towing driver authority.

New section 182G provides an applicant for an accident towing driver authority a right to apply for a review by the Administrative Appeals Tribunal of a decision by a licensing authority to refuse to grant an application for an authority, to impose or vary the conditions applying to an authority and a refusal to issue a duplicate authority.

Clause 17 inserts new sections 183A and 183B into the Act.

New section 183A provides for the Roads Corporation to declare an area to be a controlled area.

New section 183B provides that it is an offence for a tow truck driver who has not obtained proper authorisation to attend an accident scene in a controlled area or to tow or attempt to tow a damaged vehicle from such an accident scene. The section also specifies the duty of a tow truck driver in respect of recording job numbers.

Clause 18 makes minor consequential amendments to the Act and inserts new regulation-making powers relating to tow truck matters.

Clause 19 amends sections 131 and 138A of the Act to enable the Secretary to the Department of Transport to administer tow truck licences and accident towing driver authorities.

Clause 20 amends section 147 of the Act to enable fees relating to the operation and driving of tow trucks to be determined under that section.

Clause 21 provides for the repeal of specified transitional provisions.

PART 3—OTHER AMENDMENTS

Clause 22 amends section 32 of the Act to confirm that delegations made under the authority of that section may be made for powers contained in regulations made under the Act as well as powers contained in the Act itself.

Clause 23 amends section 215G of the Act to make a minor amendment relating to making regulations with respect to safety work infringements.

Clause 24 makes statute law revision amendments to the Act.