



Western Australia

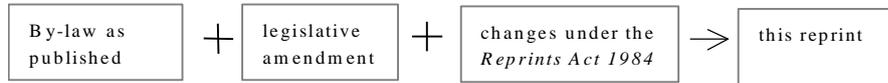
Government Railways Act 1904

**Government Railways
(Removal and Disposal of
Vehicles) By-law 1978**

Reprint 1: The by-law as at 7 May 2004

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original by-law and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the by-law being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a rule that was inserted, or has been amended, since the by-law being reprinted was made, editorial notes at the foot of the rule give some history of how the rule came to be as it is. If the rule replaced an earlier rule, no history of the earlier rule is given (the full history of the by-law is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the by-law has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the by-law was published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the by-law is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Reprinted under the
Reprints Act 1984 as
at 7 May 2004

Western Australia

Government Railways (Removal and Disposal of Vehicles) By-law 1978

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Government Railways Act 1904

Government Railways (Removal and Disposal of Vehicles) By-law 1978

[Heading deleted in Gazette 12 Dec 2003 p. 5046.]

1. Citation

- (1) This by-law may be cited as the *Government Railways (Removal and Disposal of Vehicles) By-law 1978*¹.
- (2) The main legislative units of this by-law are called rules, and a rule may contain 2 or more subrules (this sentence, for example, being subrule (2) of rule 1).

[Rule 1 amended in Gazette 12 Dec 2003 p. 5046.]

2. Application

This by-law applies to and in relation to any vehicle left on a railway for a period in excess of 7 days.

3. Interpretation

In this by-law unless the contrary intentions appears —

“**appointed place**” means a place appointed by the Authority under this by-law for the custody of a vehicle removed pursuant to this by-law;

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“authorised person” means a person appointed by the Authority to exercise any powers conferred on him by this by-law;

“the Act” means the *Government Railways Act 1904*.

[Rule 3 amended in Gazette 12 Dec 2003 p. 5046 and 5046-7.]

4. Appointment of authorised persons

The Authority may appoint persons for the purpose of removing into custody any vehicle left on a railway for a period in excess of 7 days.

[Rule 4 amended in Gazette 12 Dec 2003 p. 5046-7.]

5. Use of force

An authorised person may use such force as is necessary to enter a vehicle for the purpose of removing it and may remove the vehicle to an appointed place.

6. Appointment of appointed place

The Authority may appoint any place or places as it thinks convenient in which vehicles removed pursuant to this by-law may be held in custody.

[Rule 6 amended in Gazette 12 Dec 2003 p. 5046-7.]

7. Disposal of uncollected vehicles

Subject to rule 8 where a vehicle is not recovered within a period of 2 months from a place in which it is held pursuant to rule 6 the Authority may sell or otherwise dispose of the vehicle.

[Rule 7 amended in Gazette 12 Dec 2003 p. 5046 and 5046-7.]

8. Prerequisites of sale

- (1) A vehicle shall not be sold under this by-law unless and until the Authority has caused —
 - (a) enquiries to be made as to the ownership of the vehicle; and
 - (b) the owner of the vehicle to be notified in writing by prepaid registered mail that it is the intention of the Authority to sell or otherwise dispose of the vehicle.
- (2) Where by reason that the whereabouts of the owner are not known or otherwise the owner of a vehicle cannot be notified of the intention of the Authority to sell the vehicle the Authority shall publish in a daily newspaper circulating throughout the State notice of intention to sell or otherwise dispose of the vehicle.

[Rule 8 amended in Gazette 12 Dec 2003 p. 5046-7.]

9. Application of proceeds of sale

Where a vehicle is sold under this by-law the proceeds of sale of such a vehicle may be applied by the Authority towards recouping the costs of the removal custody and sale of the vehicle.

[Rule 9 amended in Gazette 12 Dec 2003 p. 5046-7.]

10. Recovery of costs

- (1) Where the costs of the removal, custody and sale of the vehicle exceed the proceeds of the sale of the vehicle the amount of the excess may be recovered by the Authority from the owner in any court of competent jurisdiction.
- (2) Where the proceeds of the sale of a vehicle exceed the costs of the removal, custody and sale of the vehicle the amount of such excess shall be paid to the owner of the vehicle, or, where the identity or whereabouts of the owner is unknown, shall be

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credited to the account referred to in the *Public Transport Authority Act 2003* section 32.

[Rule 10 amended in Gazette 12 Dec 2003 p. 5046 and 5046-7.]

11. Charges

The following charges shall be paid by a person who desires to recover a vehicle held in custody under this by-law —

For the removal of the vehicle to an appointed place for custody — \$2 per kilometre.

For custody of a vehicle — \$1 for each day of custody.

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Notes

- ¹ This reprint is a compilation as at 7 May 2004 of the *Government Railways (Removal and Disposal of Vehicles) By-law 1978* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Removal and Disposal of Vehicles By-laws</i> ²	21 Jul 1978 p. 2688-9	21 Jul 1978
<i>Government Railways Amendment and Repeal By-laws 2003</i> bl. 6	12 Dec 2003 p. 5041-7	12 Dec 2003
Reprint 1: The Government Railways (Removal and Disposal of Vehicles) By-law 1978 as at 7 May 2004 (includes amendments listed above)		

- ² Now known as the *Government Railways (Removal and Disposal of Vehicles) By-law 1978*; citation changed (see note under r. 1).