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ROAD TRAFFIC ACT 1974

ROAD TRAFFIC (TOWING OF VEHICLES) REGULATIONS 2020

Western Australia

Road Traffic (Towing of Vehicles) Regulations 2020

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Defined terms

Road Traffic Act 1974

Road Traffic (Towing of Vehicles) Regulations 2020

SL 2020/230

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Road Traffic (Towing of Vehicles) Regulations 2020*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 (other than regulations 3 and 4) — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020* section 5 comes into operation.

3. Terms used

- (1) In these regulations —

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1;
relevant premises has the meaning given in section 97(1);
section means a section of the Act.

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- (2) If a term is given a meaning in section 91, it has the same meaning in these regulations.

4. Application of Part 6A Division 3 (s. 96(2)(a)(vi))

For the purposes of section 96(2)(a)(vi), Part 6A Division 3 of the Act does not apply in relation to the towing of a motor vehicle in the exercise of a right under a parking agreement, where the vehicle is parked in a parking facility.

Road Traffic (Towing of Vehicles) Regulations 2020

Requirements for towing

Part 2

Notification and record of details

Division 1**r. 5****Part 2 — Requirements for towing****Division 1 — Notification and record of details****5. Terms used**

In this Division —

relevant record, in relation to a towing service provider, means —

- (a) a record made by the towing service provider as a tow truck driver under section 97(1)(c); or
- (b) a copy of a record given to the towing service provider under regulation 7(3);

relevant towing service provider, in relation to the towing of a motor vehicle, means the towing service provider who is a party to the towing arrangement that requests or permits the towing of the vehicle.

6. Vehicle details to be notified to CEO (s. 97(1)(b)(ii))

For the purposes of section 97(1)(b)(ii), the following details are prescribed —

- (a) the make, model and colour of the vehicle;
- (b) the characters on the number plates of the vehicle;
- (c) the location of the relevant premises;
- (d) the name and address of the storage yard to which the vehicle is to be towed and the telephone number maintained by the person in charge of the storage yard under regulation 16(1);
- (e) the date and time at which the towing is to occur;
- (f) the time at which the vehicle is expected to arrive at the storage yard;
- (g) the name of the controller who is a party to the towing arrangement requesting or permitting the towing of the vehicle;

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- (h) the name of the person (if any) who requested the attendance of the tow truck driver at the premises to tow the vehicle;
- (i) the steps taken to find a relevant person for the vehicle;
- (j) the name of the tow truck driver who is to tow the vehicle;
- (k) the characters on the number plates of the tow truck to be used to tow the vehicle;
- (l) the telephone number maintained under regulation 15(1) by the towing service provider who is a party to the towing arrangement requesting or permitting the towing of the vehicle.

7. Vehicle details to be recorded (s. 97(1)(c))

- (1) For the purposes of section 97(1)(c), the following details are prescribed —
 - (a) the details referred to in regulation 6;
 - (b) if 1 or more signs are required to be displayed at the relevant premises under regulation 11(2) —
 - (i) that those signs are displayed; and
 - (ii) the location, in relation to the vehicle, of the minor sign (as defined in regulation 11(1)) nearest to the vehicle (if any);
 - (c) details of the condition of the vehicle's body.
- (2) A record of a detail referred to in subregulation (1)(b) or (c) must include photographic evidence of that detail.
- (3) A tow truck driver who makes a record under section 97(1)(c) must, if the tow truck driver is not the relevant towing service provider in relation to the towing of the motor vehicle, give the relevant towing service provider a copy of the record before the tow truck driver tows the vehicle.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

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8. Towing service provider to retain records

- (1) A towing service provider must retain each relevant record for at least 12 months after the day on which the motor vehicle to which the relevant record relates is towed.
Penalty for this subregulation: a fine of 50 PU.
Modified penalty for this subregulation: 5 PU.
- (2) A towing service provider must hold all of the relevant records that the provider is required to retain at a single location.
Penalty for this subregulation: a fine of 50 PU.
Modified penalty for this subregulation: 5 PU.
- (3) A towing service provider must, before the first occasion on which a motor vehicle is towed under any towing arrangement to which the towing service provider is a party, notify the CEO, in a manner and form approved by the CEO, of the location at which the towing service provider will hold relevant records.
Penalty for this subregulation: a fine of 50 PU.
Modified penalty for this subregulation: 5 PU.
- (4) If there is a change to the location at which a towing service provider holds relevant records, the towing service provider must, within 7 days after the day of the change, notify the CEO, in a manner and form approved by the CEO, of the new location at which the towing service provider holds relevant records.
Penalty for this subregulation: a fine of 50 PU.
Modified penalty for this subregulation: 5 PU.

9. CEO may require production of records

- (1) The CEO may, by written notice, require a towing service provider to produce for inspection, or provide copies of, any relevant records.

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- (2) A notice under subregulation (1) must specify —
 - (a) the manner and form in which the relevant records must be produced or copies provided; and
 - (b) the time within which the relevant records must be produced or copies provided, which must allow the towing service provider a reasonable period to comply with the notice.
- (3) A notice under subregulation (1) may require copies of relevant records to be provided on an ongoing basis at times specified in the notice.
- (4) Except as provided in subregulation (5), a person given a notice under subregulation (1) must comply with the notice.
Penalty for this subregulation: a fine of 50 PU.
Modified penalty for this subregulation: 5 PU.
- (5) A person is not required to comply with a notice under subregulation (1) to the extent that the notice relates to relevant records in relation to a motor vehicle that was towed more than 12 months before the day on which the notice is given.

10. Disclosure or publication of details notified to CEO

- (1) If the CEO obtains, under section 97(1)(b), information referred to in regulation 6(d), (f) or (l) in relation to a vehicle, the CEO may disclose the information to a person if the CEO is satisfied that the person is a relevant person for the vehicle.
- (2) The CEO may publish on a website information obtained by the CEO under section 97(1)(b) of a kind referred to in regulation 6(a), (b), (d), (f) or (l).

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Part 2

Signs and waiting periods

Division 2**r. 11****Division 2 — Signs and waiting periods****11. Signs to be displayed at certain relevant premises**

- (1) In this regulation —

commercial car park means a place for the parking of motor vehicles, where payment of a fee is a condition of the motor vehicle parking at the place;

large regulated property means —

- (a) a lot or strata parcel on which —
 - (i) 1 or more businesses are carried on; and
 - (ii) there are at least 50 parking bays made available for use by customers of, or other visitors to, the business;

or

- (b) a lot or strata parcel used predominantly as a commercial car park;

lot has the meaning given in the *Planning and Development Act 2005* section 4(1);

major sign means a sign that —

- (a) is at least 220 cm above ground level at its lowest point; and
- (b) is 60 cm wide by 90 cm high; and
- (c) displays the words and symbols approved by the CEO for the purposes of this paragraph; and
- (d) complies with any requirements, including as to material, colour and layout, approved by the CEO for the purposes of this paragraph;

minor sign means a sign that —

- (a) is at least 220 cm above ground level at its lowest point; and
- (b) is 30 cm wide by 45 cm high; and

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- (c) displays the words and symbols approved by the CEO for the purposes of this paragraph; and
- (d) complies with any requirements, including as to material, colour and layout, approved by the CEO for the purposes of this paragraph;

small regulated property means any of the following that is not a large regulated property —

- (a) a lot on which —
 - (i) 1 or more businesses are carried on; and
 - (ii) there are parking bays;
- (b) a strata parcel on which there are parking bays;

strata parcel means a parcel of land that has been subdivided by a strata titles scheme as defined in the *Strata Titles Act 1985*.

- (2) For the purposes of section 97(1)(d), if a motor vehicle is parked at premises that are a large regulated property or a small regulated property, a tow truck driver must not tow the motor vehicle from the premises unless —
 - (a) signs are displayed in accordance with the requirements of this regulation; or
 - (b) if an exemption has been granted under regulation 12(1) — signs are displayed in accordance with any condition of the exemption.
- (3) The following signage requirements apply to a large regulated property —
 - (a) a major sign must be displayed on the property —
 - (i) in a prominent position at each place at which a motor vehicle can enter the property; and
 - (ii) if there are machines or booths on the property at which a person can pay for parking at the property — within 1 metre of each of those machines or booths;

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- (b) minor signs must be displayed on the property in accordance with the following requirements —
 - (i) the number of minor signs displayed must not be less than a tenth of the number of parking bays on the property (rounded up to the nearest whole number); and
 - (ii) the minor signs must be reasonably evenly distributed amongst the parking bays; and
 - (iii) each minor sign must be positioned at the end of a parking bay no further than 1 metre from the bay and facing the bay.
- (4) The following signage requirements apply to a small regulated property —
 - (a) sufficient signs must be displayed on the property such that a reasonable person parking on the property would see a sign before, or when, parking;
 - (b) each sign displayed must —
 - (i) display the words and symbols approved by the CEO for the purposes of this subparagraph; and
 - (ii) comply with any requirements, including as to material, colour and layout, approved by the CEO for the purposes of this subparagraph.
- (5) A sign required to be displayed under subregulation (2) must meet the following requirements —
 - (a) the sign must be unobscured;
 - (b) the words and symbols required to be displayed on the sign must be clearly visible and undefaced.
- (6) During the period beginning on the day on which this regulation commences and ending on 31 March 2021 —
 - (a) subregulation (3) does not apply to a large regulated property; and

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- (b) subregulation (4) applies to a large regulated property as if the large regulated property were a small regulated property.

12. Exemption from requirement for signs to be displayed

- (1) If the CEO is satisfied that it is not, or will not be, practicable to comply with regulation 11(3) or (4) in relation to particular premises, or a class of premises, the CEO may by written notice exempt those premises, or that class of premises, from any of the requirements of that regulation.
- (2) An exemption under subregulation (1) may be granted —
 - (a) on application made in a manner and form approved by the CEO; or
 - (b) on the CEO's own initiative.
- (3) An exemption under subregulation (1) may be unconditional or subject to a condition that alternative requirements for the display of signs specified in the notice must be complied with.
- (4) The CEO may by written notice revoke an exemption under subregulation (1).
- (5) A notice under subregulation (1) or (4) must —
 - (a) for a notice that exempts, or revokes an exemption for, particular premises — be given to a controller of those premises; or
 - (b) for a notice that exempts, or revokes an exemption for, a class of premises — be published on a website maintained by the CEO.

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Signs and waiting periods

Division 2**r. 13**

- (6) A controller who is given a written notice under subregulation (5)(a) must, as soon as possible and in any event within 5 business days after the day on which the controller is given the notice, give a copy of the notice to each towing service provider who is a party to a towing arrangement with the controller.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

- (7) A towing service provider who is given a copy of a notice under subregulation (6) must, as soon as possible and in any event within 5 business days after the day on which the towing service provider is given the copy, give a copy of the notice to each tow truck driver requested or permitted to tow motor vehicles under the relevant towing arrangement.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

13. Waiting period (s. 97(1)(e))

- (1) For the purposes of section 97(1)(e), the minimum waiting period is —
- (a) in relation to a vehicle that was authorised to park at the relevant premises when it was parked — 60 continuous minutes after the vehicle ceases to be authorised to park at the premises; or
 - (b) in relation to a vehicle that was not authorised to park at the relevant premises when it was parked — 60 continuous minutes after the vehicle was parked.
- (2) In subregulation (1), a reference to a vehicle being *authorised to park* at the relevant premises includes a reference to —
- (a) the vehicle being authorised to park at the relevant premises under an agreement; and
 - (b) the vehicle being permitted to park at the premises by signs displayed at the premises.

Road Traffic (Towing of Vehicles) Regulations 2020**Part 2** Requirements for towing**Division 3** Information to be given by towing service providers and persons in charge of storage yards**r. 14**

Division 3 — Information to be given by towing service providers and persons in charge of storage yards**14. Application of Division**

This Division applies in relation to the towing or storage of motor vehicles only if Part 6A Division 3 of the Act applies to that towing or storage.

15. Towing service provider must maintain telephone number and provide information in relation to vehicles

(1) A towing service provider must —

- (a) maintain a telephone number for enquiries in relation to the towing of motor vehicles under towing arrangements to which the towing service provider is a party; and
- (b) ensure that a person can be contacted on that telephone number to provide the information referred to in subregulation (2) —
 - (i) at all times between 9 am and 5 pm on a business day; and
 - (ii) if a motor vehicle is towed under a towing arrangement to which the towing service provider is a party — at all times when the vehicle is being towed and for at least 30 minutes after the vehicle arrives at a storage yard.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

(2) A towing service provider must ensure that a person who calls the telephone number referred to in subregulation (1) at a time referred to in that subregulation and claims to be a relevant person for a motor vehicle is given the following information about the vehicle —

- (a) whether the vehicle is being or has been towed under a towing arrangement to which the towing service provider is a party;

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Division 3

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- (b) if the vehicle is being towed as referred to in paragraph (a) — the storage yard to which the vehicle is being towed and the time at which it is expected to arrive at the storage yard;
- (c) if the vehicle has been towed as referred to in paragraph (a) and has not been released — the storage yard to which the vehicle has been towed.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

16. Person in charge of storage yard must maintain telephone number and provide information in relation to vehicles

- (1) A person in charge of a storage yard (the *storage yard operator*) must —
 - (a) maintain a telephone number for enquiries in relation to motor vehicles that are, or may be, stored in the storage yard; and
 - (b) ensure that a person can be contacted on that telephone number to provide the information referred to in subregulation (2) between 9 am and 5 pm on a business day.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

- (2) A storage yard operator must ensure that a person who calls the telephone number referred to in subregulation (1) at a time referred to in that subregulation and claims to be a relevant person for a motor vehicle is advised whether the vehicle is at the storage yard.

Penalty for this subregulation: a fine of 50 PU.

Modified penalty for this subregulation: 5 PU.

Road Traffic (Towing of Vehicles) Regulations 2020**Part 3** Release of vehicles and charges**r. 17**

Part 3 — Release of vehicles and charges**17. Maximum on-site release charge (s. 100(4))**

For the purposes of section 100(4), the maximum amount for an on-site release charge is \$100 (including any GST payable).

18. Steps to release vehicle from storage (s. 103)

- (1) In this regulation —

carriageway has the meaning given in the *Road Traffic Code 2000* regulation 3(1).

- (2) For the purposes of section 103(2), a vehicle is released if the vehicle is left outside the storage yard either —

- (a) on a paved area leading from the main entrance of the storage yard to a carriageway adjacent to the storage yard; or
- (b) on —
 - (i) a carriageway adjacent to the storage yard, not further than 50 metres from a path leading from the carriageway to the main entrance of the storage yard; or
 - (ii) if subparagraph (i) cannot be lawfully complied with — a carriageway as near as lawfully possible to the storage yard.

19. Maximum towing charges amount (s. 105(1))

For the purposes of section 105(1), the maximum towing charges amount is \$150 (including any GST payable).

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Part 3**r. 20**

20. Maximum storage charges amount (s. 105A(1))

- (1) For the purposes of section 105A(1), the maximum storage charges amount (including any GST payable) is —
- (a) if the vehicle is in storage for less than 15 days — an amount in dollars calculated by multiplying the number of days the vehicle is in storage by 25; or
 - (b) if the vehicle is in storage for 15 days or more — an amount in dollars calculated as follows —
$$350 + 10(D - 14)$$

where —

D is the number of days the vehicle is in storage.
- (2) For the purposes of subregulation (1), the number of days a vehicle is in storage is to be calculated by dividing the time the vehicle is in storage (rounded upwards to the nearest hour) by 24 and then rounding upwards to the nearest whole number.

V. MOLAN, Clerk of the Executive Council.

Road Traffic (Towing of Vehicles) Regulations 2020**Defined terms**

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
authorised to park.....	13(2)
carriageway	18(1)
commercial car park.....	11(1)
GST	3(1)
large regulated property	11(1)
lot	11(1)
major sign	11(1)
minor sign	11(1)
relevant premises	3(1)
relevant record	5
relevant towing service provider	5
section	3(1)
small regulated property	11(1)
storage yard operator.....	16(1)
strata parcel	11(1)