

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The object of this Bill is to amend the *Tow Truck Industry Act 1998* (**the Principal Act**) so as:

- (a) to abolish the Tow Truck Authority and transfer its tow truck industry regulatory functions to the Roads and Traffic Authority, and
- (b) to abolish the job allocation scheme, and
- (c) to require towing authorisations to be obtained for the carrying out of accident towing work, and
- (d) to make other amendments of a minor or consequential nature.

The Bill also makes consequential amendments to various other Acts and Regulations.

### **Outline of provisions**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Tow Truck Industry Act 1998* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the consequential amendments to the other legislation set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

### **Schedule 1 Amendment of Tow Truck Industry Act 1998**

#### **Amendments relating to abolition of TTA and transfer of functions to RTA**

The Tow Truck Authority (**TTA**), its Board and the Tow Truck Industry Advisory Council are established under Part 2 of the Principal Act to manage and regulate the tow truck industry. **Schedule 1 [6]** abolishes the TTA, its Board and the Advisory Council and transfers all of the tow truck industry regulatory functions of the TTA to the Roads and Traffic Authority (**RTA**).

Currently under the Principal Act there is established a fund known as the Tow Truck Industry Fund. This fund receives all money, and pays all expenditure for the purposes of the Principal Act. **Schedule 1 [16]–[20]** ensure that all money received by the RTA under the Principal Act is retained and paid out of the Tow Truck Industry Fund.

The Principal Act contains various miscellaneous provisions relating to the administration of the TTA (including its financial year, recovery of money, delegation of functions and protection from personal liability). The *Transport Administration Act 1988* contains similar administrative provisions that apply to the RTA. Accordingly, **Schedule 1 [21], [22], [24] and [29]** remove unnecessary sections from the Principal Act.

**Schedule 1 [34]** specifies the date on which the TTA is to be abolished and makes it clear that the assets, rights and liabilities of the TTA become those of the RTA. Also, anything done by the TTA is taken to have been done by the RTA. The financial year reporting requirements of the TTA are extended to include the period of time up to its abolition.

**Schedule 1 [4]** removes definitions that are no longer required as a result of the above amendments.

**Schedule 1 [1], [2], [5], [13], [23], [25], [26] and [32]** make minor consequential amendments as a result of the abolition of the TTA.

#### **Amendments relating to abolition of job allocation scheme**

The Principal Act currently provides for a job allocation scheme for towing work.

**Schedule 1 [8]** abolishes the job allocation scheme by removing provisions relating to its establishment, administration and operation.

**Schedule 1 [7], [10] and [30]** make minor consequential amendments as a result of the abolition of the job allocation scheme.

#### **Amendments relating to accident towing work**

**Schedule 1 [9]** inserts proposed sections 49 and 49A into the Principal Act. Proposed section 49 provides that accident towing work must not be undertaken unless a towing authorisation has been obtained for the towing work. A towing authorisation is not required if a direction to tow is given by a police officer or authorised officer. Proposed section 49A makes it an offence for a person to obtain, or attempt to obtain, a towing authorisation in respect of towing work for which a towing authorisation has already been given.

**Schedule 1 [3]** inserts the definitions of “accident”, “accident towing work” and “scene of an accident” (currently contained in the *Tow Truck Industry Regulation 1999*) into the Principal Act.

**Schedule 1 [11], [14] and [15]** make minor consequential amendments as a result of the amendments relating to accident towing work.

#### **Other amendments**

The Principal Act currently provides that the TTA may determine maximum charges that may be charged by tow truck operators. **Schedule 1 [12]** provides that charges determined by the RTA must be published in the Gazette.

The Principal Act enables the TTA to serve documents on a person by personal delivery, delivery to the person’s place of residence or business or by post. **Schedule 1 [27]** provides that the RTA may, in addition to these methods of service, serve documents by facsimile transmission. The Principal Act also provides that a document may be served on the TTA at any of its offices. **Schedule 1 [28]** also provides that a document may be served on the RTA at its Head Office or other offices as prescribed by the regulations.

**Schedule 1 [33]** amends Schedule 2 to the Principal Act to enable regulations containing savings or transitional provisions to be made as a consequence of the enactment of the proposed Act.

Uncommenced Schedule 3.1 to the Principal Act inserts proposed clause 9 of Part 4 of Schedule 2 to the *Administrative Decisions Tribunal Act 1997* so as to provide for the constitution of the Tow Truck Industry Disciplinary Panel. **Schedule 1 [35]** repeals the uncommenced Schedule and **Schedule 1 [31]** is a consequential amendment.

#### **Schedule 2 Consequential amendments of other legislation**

As a result of the abolition of the TTA, **Schedule 2.1–2.6** make minor consequential amendments to the *Administrative Decisions Tribunal (General) Regulation 2004*, *Public Finance and Audit Act 1983*, *Road Transport (General) Act 2005*, *Road Transport (General) Regulation 2005*, *Road Transport (Safety and Traffic Management) Act 1999* and *Transport Administration Act 1988* respectively.