



Fact Sheet

Private Property Owner-Occupier

As a result of the ban on wheel clamping, from 14 December 2020 the Department of Transport (DoT) will regulate the towing and storage of vehicles from private property under Part 6A of the *Road Traffic Act 1974* (Act) and the *Road Traffic (Towing of Vehicles) Regulations 2020* (Regulations).

As the owner or occupier of a private property, it is important that you understand your obligations in relation to the towing of vehicles from private property that you own or occupy. The Regulations prescribe the requirements and obligations of all parties involved in the towing and storage of vehicles from private property, including penalties for failure to comply.

Options available to monitor and enforce parking conditions

Owners and occupiers of private property are entitled to set terms and conditions for the parking of vehicles on their property. Although you can no longer use wheel clamping to enforce the conditions of your parking area there are other options available to manage parking on your private property.

Permanent Infrastructure

You can consider erecting barriers, such as chains or boom gates to stop motorists accessing the parking area. Stopping unwanted motorists from entering your parking area is a more effective and less contentious way to control parking on your property than removing unauthorised vehicles.

Local Parking Agreements

You are encouraged to enter into a local parking agreement with the Local Government where the property is situated. This allows the local rangers to enforce parking conditions and to issue monetary infringements to those drivers who do not comply. If your Local Government does not offer local parking agreements, you could enter into a similar arrangement with a company that offers monitoring and parking management services.

If these measures do not work, you may arrange for the towing of a vehicle that is parked in a position where it is causing a hazard, unreasonable obstruction or in breach of your parking conditions.

Non-compliance Breach Notices

There are a number of companies offering monitoring and parking management services which can issue non-compliance breach notices.

These notices are placed on vehicles that are parked in

breach of the terms and conditions of a property and seek payment for the breach. Parking management companies may pursue the matter through the courts if payment is not made.

Towing Arrangements

You can only arrange to have vehicles towed from your private property if you have entered into a towing arrangement with a towing service provider. A towing arrangement is an agreement between you as the owner or occupier (controller) of private property and a towing service provider that requests or permits the removal of vehicles parked on your property by a towing service provider or a tow truck driver authorised by the towing service provider.

A towing arrangement may relate to a single instance of towing one or more specified vehicles or may be a general arrangement requesting or permitting the towing of vehicles parked at your property in circumstances set out in the arrangement.

A vehicle can only be towed from your property if you have entered into a towing agreement with a towing service provider using the approved Private Property Towing Arrangement (E202T) form which can be downloaded at www.transport.wa.gov.au/privateparking

Email a signed copy of the towing arrangement to privateparking@transport.wa.gov.au

Call out charge

If you call a tow truck driver to your property to tow a vehicle, but the vehicle is not towed and no on-site release charge is paid by the driver of the vehicle, you must pay the tow truck driver a call-out charge which has been agreed to and recorded on the signed Private Property Towing Arrangement (E202T) form.

Signage Requirements

A vehicle parked at your property cannot be towed unless signs are displayed in accordance with the signage requirements that relate to your property.

Signage requirements may vary depending on the type of property or the size of the property's parking area. Information on signage requirements can be located in the Private Property Parking Signage Guidelines which can be downloaded at www.transport.wa.gov.au/privateparking

Signage Exemption

If it is not practicable for your property to comply with signage requirements you may apply for a signage exemption/variation using the Signage Exemption Application (E201T) form available at www.transport.wa.gov.au/privateparking

If your private property has been granted a signage exemption/variation you will be provided a written notice and must provide a copy of the notice, as soon as possible and in any event within 5 business days after the day on which it was granted, to any towing service provider who is a party to the towing arrangement relating to the property.

Conditions of towing

Before a tow truck driver can tow a parked vehicle from your private property certain conditions must be met. These conditions are required by law and failure to comply with them is an offence.

Reasonable steps

Reasonable steps must be taken to locate the driver of a vehicle parked at your property before a tow truck driver can tow the vehicle away. Reasonable steps include:

- looking around the immediate area to see if the vehicle driver is nearby;
- asking other people at the carpark or nearby shops if they know the whereabouts of the vehicle driver; or
- looking for contact or business name details on the vehicle.

As the controller of your property you may wish to assist the tow truck driver by taking reasonable steps to locate the driver of a vehicle before the tow truck arrives. The tow truck driver is not required to take these steps if you have done so and advised the tow truck driver of this fact. It is an offence to give any information to the tow truck driver that you know is false or misleading in a material particular.

Waiting Periods

A vehicle cannot be towed from your property until the tow truck driver has complied with all conditions of towing and a period of 60 minutes has lapsed from the time the driver failed to comply with the terms and conditions of parking on your property.

Waiting periods do not apply to a vehicle that is parked in a position where it is causing a hazard or unreasonable obstruction and can be towed immediately.

Towing of Vehicles

Please refer to the Tow Truck Drivers Fact Sheet for further information on the towing of vehicles from private property.

Further Information

Fact Sheets and further information are available online at www.transport.wa.gov.au/privateparking