



## Frequently Asked Questions

# Wheel Clamping Ban and Private Property Towing

### Has wheel clamping been banned?

Yes, from 14 December 2020, the use of wheel clamps as a way of managing private property parking has been banned. Wheel clamping refers to all means of vehicle immobilisation, including wheel boots and other devices such as Barnacles, which attach to a vehicle's windscreen.

The use of wheel clamps or other immobilisation devices will remain lawful in some circumstances, such as owners using wheel clamps as an anti-theft measure on their vehicle, trailer or caravan, and by persons authorised by law or court order to do so.

### Why was wheel clamping banned?

The State Government banned wheel clamping in response to rising public concern about the use of wheel clamps as a private parking control measure.

The ban brings Western Australia in line with other states and territories who have also banned this practice.

### What do I do if my vehicle is clamped after this date?

If your vehicle has been clamped by a public officer in the enforcement of a law, or a person appointed to carry out an order of a Court, the clamping of your vehicle has been done lawfully and you will need to act in accordance with the instructions given to have the wheel clamps removed.

It is an offence for your vehicle to be clamped by any other person who is not authorised at law to do so. If you believe your vehicle has been clamped by a private entity after 14 December 2020 you should lodge a complaint with the Department of Transport (DoT) by calling 13 11 56. DoT will investigate your complaint and act if it is found that your vehicle was unlawfully clamped.

### What is the penalty if a vehicle is clamped illegally?

The maximum penalty for wheel clamping as a private parking control measure is now \$5,000.

### Does the ban on wheel clamping apply in regional Western Australia?

Yes, the prohibition on wheel clamping as a private property parking control measure applies State-wide.

### Can I now park anywhere I like?

No, owners and occupiers of private property are entitled to set terms and conditions for the use of the parking on their property. If you park in a place you are not authorised to park, or do not comply with the parking terms and conditions in a private property parking area, your vehicle may now be towed away.

### How can owners or occupiers of private property stop unauthorised vehicles from parking on their property?

Although owners or occupiers of private property can no longer use wheel clamping to enforce the conditions of private property parking there are other options available to manage parking on the property.

Owners or occupiers of private property are encouraged to use a variety of methods to control parking such as:

- Installation of infrastructure, such as boom gates, bollards or restricted access gates.
- Education through signage.
- Use of private monitoring and parking management companies to issue non-compliance breach notices.
- Entering into a local parking agreement with the Local Government where the property is situated to allow local rangers to enforce parking conditions and to issue monetary infringements.
- Towing of vehicles as a last resort.

### **If wheel clamping is banned won't vehicles just be towed instead?**

Owners and occupiers of private property are entitled to set terms and conditions for the parking of vehicles on their property. Although the use of wheel clamping has been banned there are options other than towing available to manage parking on private property.

DoT encourages owner-occupiers of private property to consider other options in managing private parking and to tow vehicles as a last resort.

A vehicle cannot be towed away from a private property until certain conditions have been met, these include signage requirements, waiting periods and taking reasonable steps to locate the driver of a vehicle. Please read the Parking on Private Property Fact Sheet for further information on the towing of vehicles from private property.

### **Won't towing cost more than wheel clamping?**

Charges for the towing and storage of vehicles from private property are prescribed in the *Road Traffic (Towing of Vehicles) Regulations 2020*. A tow truck driver cannot charge an amount that exceeds the following:

On-site release charge	\$100
Towing Charge	\$150
Storage charges	
24 hours or less	\$25
1-14 days	\$25 per day
15 days or more	\$350 + \$10 per day for each additional day

### **What if I return to my vehicle and it is being loaded onto a tow truck?**

If you return to your vehicle and a tow truck driver is in the process of loading and securing your vehicle on a tow truck, the driver must immediately release your vehicle without charge if you agree to remove your vehicle from the private property immediately or within a time agreed to.

If your vehicle has been fully loaded onto a tow truck and the tow truck has not left the property, the tow truck driver must inform you that if you pay a \$100 on-site release charge the vehicle will be immediately released. The tow truck driver cannot tow your vehicle from the property if you pay the on-site release charge.

### **What if I return to my vehicle and it is gone?**

If you have parked on a property that has "TOW AWAY ZONE" signs featuring the image depicted below indicating that vehicles may be towed away, and you have parked in a place you are not authorised to park, or have not complied with the parking terms and conditions, your vehicle may have been towed away.



You should contact the towing service provider that is authorised to tow vehicles from the property using the details on the signs at the property to find out if your vehicle has been towed and if so where it has been towed to.

### **How do I get my vehicle back after it has been towed?**

If your vehicle has been towed, the towing service provider will advise you of the storage yard where your vehicle is being, or has been, towed to and the time it is expected to arrive at the storage yard.

You will need to attend the storage yard to collect your vehicle.

There is no obligation for a storage yard to be open on weekends or after 5 pm on a business day, therefore if your vehicle has been towed outside of these hours you may not be able to collect your vehicle until the storage yard is open.

## Will I be charged for the storage of my vehicle?

Yes. Storage charges are prescribed in the *Road Traffic (Towing of Vehicles) Regulations 2020* and are capped. A storage yard cannot charge an amount for storage that exceeds the following:

24 hours or less	\$25
1-14 days	\$25 per day
15 days or more	\$350 + \$10 per day for each additional day

## Do the storage charges keep going up if I cannot pay immediately?

The person in charge of a storage yard must, upon your request, release your vehicle as soon as is practicable but, in any event, no later than 4 business hours after you made the request between 9 am and 5 pm on a business day.

If you are unable to pay the storage charge immediately your vehicle must still be released upon your request. You will be liable for the storage and towing charges and payment may be pursued through other legal mechanisms as a debt.

## Can a towing service provider or storage yard charge additional fees?

No. A tow truck driver, towing service provider or storage yard cannot impose any fee or charge outside of those listed above that are prescribed in the *Road Traffic (Towing of Vehicles) Regulations 2020*. This includes additional fees for:

- responding to a request to remove the vehicle or attend a place at which the vehicle is located;
- travelling to the place at which the vehicle is located;
- taking steps to find the owner of the vehicle;
- using a lifting or loading device on the tow truck;
- using fuel;
- administrative work;
- taking or producing photographs;
- preparing or sending documents or information;
- moving a vehicle within a storage yard;
- compensation for long distance travel;
- use of extra cars or workers; or
- any other additional fee.

## How will the towing of vehicles from private property be regulated?

The Department of Transport will regulate the towing and storage of vehicles from private property under Part 6A of the *Road Traffic Act 1974* and the *Road Traffic (Towing of Vehicles) Regulations 2020*.

It is important to note that the regulation of towing applies only to the towing of vehicles from private property and does not apply to vehicles towed in the below circumstances:

- Breakdown or crash.
- Sheriffs, Police or other law enforcement in the exercise of their functions.
- Vehicles impeding access or traffic on public roads such as clearways, freeways, transit lanes and bus lanes.
- Vehicles causing a hazard on public roads.
- An emergency on public roads.

## How will the ban on wheel clamping and the towing and storage of vehicles from private property be enforced?

The Department of Transport is responsible for enforcing the ban on wheel clamping and regulating towing of vehicles from private property.