

4 October 2019

Ms Megan Bourke-O'Neil
Deputy Secretary, Policy & Innovation
Department of Transport
1 Spring Street
MELBOURNE VIC 3000

Dear Ms Bourke-O'Neil

REGULATORY IMPACT STATEMENT FOR ACCIDENT TOWING SERVICES REGULATIONS 2019

I would like to thank staff at the Department of Transport for working with my team on the preparation of the Regulatory Impact Statement (RIS) for the Accident Towing Services Regulations 2019 (the proposed Regulations). The existing Accident Towing Services Regulations are made under the *Accident Towing Services Act 2007* (the Act) and are due to sunset in December 2019.

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 4 October 2019 meets the adequacy requirements of the SLA.

Background

The Accident Towing Services Act 2007 (the Act) provides for price regulation of accident towing and storage fees, accident tow truck licences and accreditation for accident operators, depot managers and tow truck drivers.

The proposed Regulations sit under the Act and prescribe requirements for:

- tow truck licence certificates;
- record keeping and specified depots (licences are linked to a specific depot);
- vehicle specifications;
- road accident scene rosters and allocations in a controlled area;
- industry and driver accreditation qualifications and training;
- tow truck operations;
- accident towing demerit points;

- infringements; and
- fees.

Accident towing in Victoria is divided into three geographic areas:

1. the Melbourne Controlled Area; and
2. the Self-Management Area of Geelong; and
3. an unregulated regional area (all other areas).

In the Melbourne Controlled Area, the Royal Automobile Club of Victoria (RACV) administers the accident allocation centre on behalf of VicRoads and allocates accident towing jobs to licensed accident tow truck operators from a depot within an allocation zone. The Self-Management Area of Geelong also has an accident allocation centre that allocates accident towing jobs. The unregulated regional area does not have a formal accident allocation centre although the Victoria Police sometimes allocate accident towing jobs.

Trade towing (non-accident towing) is outside the scope of the Act and the Regulations.

Analysis

The Department explains in the RIS that regulations are required to ensure safe and orderly accident towing services are provided to motorists involved in a road accident. The Department explains that regulations are important to protect consumers because motorists involved in an accident are often traumatised, vulnerable and have usually not used accident towing services before. The Department also explains that it is important to clear accidents quickly to minimise congestion.

The Department analyses options for several issues in the RIS.

Allocation response time and notification

The Department analyses two options for allocation response time and notification in the RIS:

1. telephone notification (the current Regulations) where a tow truck driver is required to notify the Accident Allocation Centre upon arrival and departure from an accident; and
2. GPS notification, where tow truck drivers would be required to have a GPS tracking device installed to enable the Accident Allocation Centre to identify the rostered tow truck driver's exact location when they accept a job and allow data on arrival and departure times to be transmitted electronically.

Under both options drivers would be required to arrive at an accident scene within 30 minutes of being allocated an accident towing job.

In the RIS, the Department explains that GPS notification would lead to quicker clearance of accidents because the Accident Allocation Centre would not need to speak with the tow truck driver to establish departure and arrival times. GPS notification would also allow the Department to analyse tow truck driver compliance and performance including whether drivers were meeting the requirement to arrive at an accident within 30 minutes of being allocated the job.

Overall, the Department explains that GPS notification could have benefits of up to \$38 million per year. This estimate is based on congestion costs decreasing in proportion with accident clearance times, congestion costs for Melbourne of \$4.6 billion per year (from 2015 research by the Bureau of Infrastructure, Transport and Regional Economics) and attributing 25 per cent of congestion costs to accidents. The Department explains that the full establishment and ongoing costs are unknown.

The Department also explains that the introduction of GPS could have broad implications for accident towing services beyond notification of arrival and departure of an accident scene, including relating to privacy and towing fees, as well as how accident towing jobs are allocated if a proximity-based system, where a job would be allocated to the closest tow truck rather than the closest depot, is put in place.

The Department explains that its preferred option is the current Regulations and states in the RIS that it will investigate establishment and operational costs for the Accident Allocation Centre as part of the contract retendering process, expected to be early in 2020, and will undertake further investigation into the costs, privacy issues as well as other practical issues before recommending GPS notification.

Double tows

The Department analyses the impacts of continuing the current prohibition on a tow truck towing two or more vehicles from an accident and allowing 'double tows'. The Department explains that allowing double tows would allow operators to improve productivity for accidents involving multiple vehicles (roughly half of all accidents). The Department explains that prohibiting double tows has benefits including making the accident allocation system simpler and less costly to administer because the Accident Allocation Centre does not have to determine whether a double tow is appropriate. A double tow might be inappropriate because of the types of vehicles involved in an accident (it is not appropriate to double tow four-wheel-drive vehicles) and drivers might want their cars towed in different directions. The benefits of prohibiting double tows also include reducing traffic congestion through quicker clearance of accident scenes (because double tows are slower) and greater employment opportunities for drivers.

The Department explains in the RIS that its preferred option is the current Regulations and that it does not support double towing at this time due to the significant practical challenges that would need to be overcome, as well as the unknown impacts on drivers and owners of accident damaged vehicles. The Department states that it will undertake a detailed evaluation of allowing double tows as part of its forward work program to determine whether permitting double tows would provide enough benefits to warrant the cost to establish and administer such a system.

Electronic records

In the RIS, the Department analyses options for requirements for collecting and storing information electronically. In addition to the current Regulations, which allow records other than the 'authority to tow' form to be stored electronically, the Department explores two alternative options:

1. allowing tow truck drivers to record an 'authority to tow' electronically using a tablet device and print it out and provide it to the driver at the accident scene; and
2. allowing the Accident Allocation Centre to collect required information for an authority to tow form at the same time a tow truck is requested.

The Department notes that both of these options are infeasible because they would require amendments to the Act as the Act requires that an 'authority to tow' be collected in hard copy form. The Department explains that, relative to the current Regulations, allowing the Accident Allocation Centre to collect required information would speed up the clearance of accident scenes, which would reduce congestion and save costs for operators as well as drivers and owners of accident damaged vehicles. The Department has undertaken preliminary estimates of the benefits from reduced congestion and costs savings of this option. It estimates the benefits are about \$64 million per year based on congestion costs decreasing in proportion with accident clearance times.

The Department has also estimated that as a result of reduced clearance times there would be cost savings of \$410,000 per year to operators and \$210,000 per year to drivers and owners, but there would be additional capital costs for operators of \$350,000 per year and additional costs for the Accident Allocation Centre of \$533,000 per year.

The Department explains in the RIS that while this option appears to be the superior option its preferred option is the current Regulations because the contract for the Accident Allocation Centre is due to expire in 2020. The Department explains that the costs of this option can be better assessed as part of the contract re-tendering process, which is expected in early 2020.

Consumer information

In the RIS, The Department analyses options for information required to be provided to a motorist at an accident scene. The current Regulations require tow truck drivers to provide an information pamphlet prepared by VicRoads to the motorist. The Department analyses two alternative options in the RIS that would provide additional information to the current pamphlet:

1. amend the authority to tow form to include a single page of important information that must be signed by a motorist before their vehicle is towed. This is based on an Essential Services Commission (ESC) recommendation; and
2. provide information by SMS to the motorist involved in an accident. This option involves the Accident Allocation Centre and/or insurers sending an SMS to the motorist including similar information to that recommended by the ESC.

The Department explains that its preferred option is the current Regulations because the two alternative options can be implemented administratively without amending the Regulations.

Other issues

The preferred option involves maintaining aspects of the current requirements including:

- the same prescribed information in an authority to tow form including details of the tow truck and vehicle to be towed, fee information and authorisations. The Department explains that most tow truck operators would collect this information anyway;
- operators being required to keep records at the specified depot for one year to enable authorities to have immediate access to documents for investigations. The Department explains that this requirement has important consumer protection benefits but requiring these records to be kept for longer would have little additional benefits;
- the same vehicle specification and equipment requirements (adherence to the Australia Design Rule on construction of tow trucks as well as a requirement to have equipment to remove debris from an accident scene);

The preferred option involves minor changes to the Regulations including:

- introducing exemptions to the requirement that a written statement from the local council is required for the specified depot for a tow truck licence to be changed; and
- amending operational requirements to allow tow trucks to be based away from the specified depot (e.g. at the driver's home) outside of standard business hours.

Fees

In the RIS, the Department analyses options for annual tow truck licence fees. It explains that there are two types of costs relevant to tow truck licence fees:

- regulatory costs for VicRoads in administering the Regulations (currently about \$120,000 per year); and
- costs of operating the Accident Allocation Centre for the Melbourne Controlled Area (currently about \$1.5 million per year).

The Department explains that the current licence fees (\$1,038.62 for the Melbourne Controlled Area and \$207.00 for other areas and heavy vehicle towing licences) under-recover costs for the Melbourne Controlled Area by \$1.1 million and slightly over-recover outside this area (by \$16,000). The Department analyses four options in the RIS for annual tow truck licence fees:

1. current fees that provide partial cost recovery;
2. full cost recovery using annual tow truck licence fees;
3. full cost recovery using annual tow truck licence fees and introducing an accident allocation fee for each tow; and
4. full cost recovery for licence holders outside the Melbourne Controlled Area while maintaining the current fees for licence holders in the Melbourne Controlled Area.

The Department explains that while options 2 and 3 both achieve full cost recovery, option 3 is superior as option 2 would lead to significant cross subsidisation because licence holders doing a smaller number of tows would pay a much higher fee per tow than licence holders doing a larger number of tows. The Department explains that option 4 would lead to a slight reduction in fees for regional licences but is otherwise the same as option 1.

The Department explains that option 1 is its preferred option because the current contract for the Accident Allocation Centre is expected to be retendered in early 2020. The Department states in the RIS that fees will be reviewed following the completion of the tender process when it has updated costs of running the Accident Allocation Centre.

The fee for a licence holder altering their specified depot is also analysed in the RIS. The Department's preferred option is to increase the fee to achieve full cost recovery of administering alterations to specific depots (total costs of about \$14,000 per year).

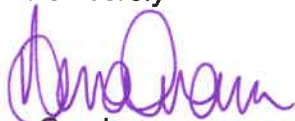
Implementation and evaluation

In the RIS, the Department notes prior to the commencement of the proposed Regulations it will advise key stakeholders of the amendments. The Department notes that it will be able to assess the proposed Regulations using data on approvals of applications as well as on infringements and demerit points to assess to monitor and evaluate the effectiveness of the Regulations.

The Department notes in the RIS that it identified options to improve the current regulatory arrangements including allowing GPS notification, electronic authority to tow and double towing but these options were not preferred because of a lack of information. The Department notes in the RIS that it is committed to undertake a detailed business case of these options and make recommendations to the Minister as part of its forward work program.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation