

# **PARKING SPACE LEVY ACT 1992 No. 32**

NEW SOUTH WALES



## **TABLE OF PROVISIONS**

### **PART 1—PRELIMINARY**

1. Short title
2. Commencement
3. Object
4. Definitions
5. Act binds the Crown
6. Premises to which this Act applies
7. Parking spaces to which this Act applies
8. Determination by the regulations of matters relating to parking spaces

### **PART 2—IMPOSITION OF LEVY**

9. Levy
10. Recovery of levy
11. Amount of levy
12. Determination of amount of levy by CPI adjustment
13. Parking spaces that exist for part of year
14. statutory trust
15. Returns
16. Variations, refunds, extensions etc.
17. Obligations of persons in public sector positions

### **PART 3—PUBLIC TRANSPORT FACILITIES FUND**

18. Public Transport Facilities Fund

### **PART 4—MISCELLANEOUS**

19. Requiring information
20. Failing to give information: offence
21. Entry and inspection
22. Standards for entry and inspection

*Parking Space Levy Act 1992 No. 32*

---

23. Search warrants
24. Exclusion of personal liability
25. Obstruction etc.: offence
26. Contributions if several owners etc.
27. Appeals
28. Proceedings for offences
29. Certificate as to levy
30. Delegation
31. Regulations
32. Transitional provisions

SCHEDULE 1—TRANSITIONAL PROVISIONS

---

**PARKING SPACE LEVY ACT 1992 No. 32**

NEW SOUTH WALES



**Act No. 32, 1992**

An Act to impose a levy on off-street parking spaces in certain areas and to provide for the application of the revenue. [Assented to 18 May 1992]

**The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Parking Space Levy Act 1992.

**Commencement**

2. This Act commences on 1 July 1992.

**Object**

3. The object of this Act is to discourage car use in business districts by imposing a levy on off-street commercial and office parking spaces (including parking spaces in parking stations), and by using the revenue so raised to finance the development of infrastructure to encourage the use of public transport to and from those districts.

**Definitions**

- 4 (1) In this Act:

“**Chief Commissioner**” means the Chief Commissioner of Stamp Duties referred to in the Stamp Duties Act 1920;

“**exempt**”, in relation to a parking space, means exempt by or under section 7, and in relation to a person, means exempt by the regulations;

“**financial year**” means a year commencing on 1 July;

“**levy**” means the levy imposed under this Act in respect of a parking space;

“**parking space**” means:

- (a) a space set aside for the parking of a motor vehicle (whether or not the space is used for the parking of a motor vehicle); and
- (b) a space used for the parking of a motor vehicle; and
- (c) any other space prescribed by the regulations to be a parking space for the purposes of this definition,

but does not include a space which is part of the carriageway of any street, road or lane open to or used by the public;

“**parking space to which this Act applies**” means a parking space referred to in section 7 (1);

“**premises**” includes vacant land;

**“premises to which this Act applies”** means premises referred to in section 6.

(2) In this Act, a reference to an owner, lessee or sublessee is, if there are more than one of them in relation to any premises, a reference to them jointly and severally. However, anything which this Act requires to be done by an owner, lessee or sublessee is sufficiently done if done by any one of them.

(3) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### **Act binds the Crown**

5. (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

#### **Premises to which this Act applies**

6. (1) This Act applies to premises within the City of Sydney and to premises within any other area prescribed by the regulations as a business district for the purposes of this Act.

(2) The regulations may prescribe an area by reference to local government areas (or parts of local government areas), boundaries or plans or otherwise.

#### **Parking spaces to which this Act applies**

7. (1) This Act applies to a parking space on premises to which this Act applies, other than an exempt parking space.

(2) A parking space is an exempt parking space if it is set aside or used exclusively for one or more of the following purposes:

- (a) the parking of a bicycle or motor bicycle;
- (b) the parking of a motor vehicle by a person resident on the same premises as those on which the space is located or on adjoining premises;
- (c) the parking of a motor vehicle for the purpose of loading or unloading goods or passengers to or from the vehicle;

*Parking Space Levy Act 1992 No. 32*

---

- (d) the parking of a motor vehicle by a person who is providing services on a casual basis on the premises where the space is located;
- (e) the parking of a motor vehicle while a disabled person's parking authority is displayed on the vehicle in the manner specified in the authority, the conditions specified in the authority are being observed and the authority is in force;
- (f) the parking without charge of a motor vehicle on premises owned or occupied by the council of the local government area in which the premises are situated by a person other than an officer or employee of the council;
- (g) the parking without charge of a motor vehicle on premises owned or occupied by a religious body or religious organisation, being a religious body or religious organisation in respect of which a proclamation is in force under section 26 of the Marriage Act 1961 of the Commonwealth or a religious body within a denomination in respect of which such a proclamation is in force;
- (h) the parking without charge of a motor vehicle on premises owned or occupied by a public charity or public benevolent institution.

(3) In addition, the regulations may provide for other circumstances in which a parking space is an exempt parking space.

(4) For the purposes of this Act, it does not matter if the same parking space is not set aside or used for one or more of the purposes referred to in subsection (2) or in circumstances which may be prescribed under subsection (3) as long as for each such parking space there is, at all times, at least one parking space set aside or used for such a purpose or in those circumstances on the same premises.

(5) For the purposes of this Act, it does not matter if a parking space is not marked.

(6) In this section:

**“disabled person's parking authority”** means an authority issued by the Roads and Traffic Authority to a disabled person or to a person or organisation in respect of a vehicle used for the conveyance of disabled persons.

**Determination by the regulations of matters relating to parking spaces**

**8. (1)** The regulations may make provision for or with respect to the basis and means of assessing:

- (a) the number of parking spaces there are on any premises; and

*Parking Space Levy Act 1992 No. 32*

---

(b) the length of time in any financial year for which a parking space is, or is not, a parking space to which this Act applies, for the purposes of this Act.

(2) The regulations may specify circumstances in which a parking space is taken, or is not taken, for the purposes of this Act, to be set aside or used for the parking of a motor vehicle.

## **PART 2—IMPOSITION OF LEVY**

### **Levy**

**9. (1)** The owner, as at 1 July in a financial year, of premises to which this Act applies must, unless exempt, pay a levy to the Chief Commissioner on or before 1 September in that financial year for each parking space on the premises if the space existed as a parking space to which this Act applies at any time during the previous financial year.

(2) The first levy payable under this Act becomes payable on 1 September 1992.

### **Recovery of levy**

**10. (1)** A levy is taken, when it becomes payable, to be a debt due to the Crown and payable to the Chief Commissioner.

(2) The Chief Commissioner may, in the Chief Commissioner's official name, sue for and recover in any court of competent jurisdiction any levy (or part of a levy) which is payable, together with interest accruing on the levy (or part) from 1 September in the financial year when it became payable at a rate prescribed by the regulations.

(3) The Chief Commissioner may retain from any money paid under this Act to the Chief Commissioner such commission (if any) as may be agreed on by the Chief Commissioner and the Minister.

### **Amount of levy**

**11. (1)** The amount of the levy which becomes payable on 1 September 1992 is \$200 for each parking space to which this Act applies.

(2) The amount of a levy which becomes payable on 1 September in a financial year after 1992 is the amount determined in respect of that year in accordance with section 12.

**Determination of amount of levy by CPI adjustment**

**12. (1)** An amount is determined in accordance with this section by adjusting the amount of levy determined in respect of the previous financial year in accordance with the percentage change in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician (or such other economic index as the regulations prescribe) which took place over the period of 12 months ending on 31 March in the previous financial year.

**(2)** The amount obtained by that adjustment is to be rounded up or down to the nearest \$10.

**(3)** An amount is not determined in accordance with this section unless the Chief Commissioner publishes a notice of the amount in the Gazette before 1 July in the financial year in respect of which the amount is determined.

**Parking spaces that exist for part of year**

**13.** The amount of levy payable on 1 September in a financial year after 1992 for each parking space to which this Act applies which existed for only part of the previous financial year is that proportion of the amount of levy determined in respect of the financial year which corresponds to the portion of the previous financial year for which the space existed as a parking space to which this Act applies.

**Statutory trust**

**14.** All levies paid to the Chief Commissioner under this Act are subject to a statutory trust for carrying out the construction and maintenance of car and bicycle parking facilities (and other infrastructure) which facilitate access to public transport services to and from the City of Sydney and any other area prescribed under section 6, and for other purposes referred to in section 18 (3), and must be used accordingly.

**Returns**

**15. (1)** The owner, as at 1 July in a financial year, of premises on which there is or was during the previous financial year a parking space to which this Act applies must, unless exempt, furnish to the Chief Commissioner on or before 1 September in that financial year a return in a form prescribed by the regulations.



(2) A person who fails to furnish such a return, or who furnishes a return knowing that it is false or misleading in any material particular, is guilty of an offence.

Maximum penalty: 20 penalty units.

#### **Variations, refunds, extensions etc.**

**16.** (1) The Chief Commissioner may, on application in writing by an owner of premises to which this Act applies, partly or fully credit the amount of a levy payable, or partly or fully refund the amount of levy paid, by the owner, if the amount of the levy assessed or paid is too high or in any case where the levy imposed under this Act would, in the Chief Commissioner's opinion, cause undue hardship.

(2) The Chief Commissioner may, on application in writing by an owner of premises to which this Act applies, extend the time for the payment of the levy payable by the owner or agree to the payment of the levy in instalments.

(3) The Chief Commissioner may, by notice in writing to an owner of premises to which this Act applies, demand payment of the difference between the amount of the levy paid and the amount properly payable if the amount of the levy was incorrectly assessed in respect of the parking spaces on those premises. Such an amount is recoverable in accordance with section 10.

#### **Obligations of persons in public sector positions**

**17.** (1) This section applies to a person in a public sector position who has an entitlement to use one or more parking spaces to which this Act applies.

(2) This section does not apply to such a person if:

- (a) the person is the holder of a disabled person's parking authority; or
- (b) the person is exempt.

(3) A person to whom this section applies is to make arrangements for payment of the whole or a proportion of the levy payable in respect of one of those spaces commensurate with the use the person makes of the space or spaces in conjunction with travel by the person to or from the person's place of work for duties during the person's normal working hours at that place.

(4) A person to whom this section applies is to make the arrangements with the person prescribed for the purposes of this section by the regulations, and payment is to be made in accordance with those arrangements, by the day which falls one month after the entitlement

arises or by 1 September in the relevant financial year, whichever day is later.

(5) The payment is to be made out of remuneration paid or payable to the person to whom this section applies.

(6) This section applies despite any contract to the contrary.

(7) In this section:

“**position**” includes a position to which a person is appointed or employed under a contract of services or under a contract for services and any employment (whether or not a separate position);

“**public sector position**” means:

- (a) a position in the Chief Executive Service or Senior Executive Service under the Public Sector Management Act 1988 or in the Police Service Senior Executive Service under the Police Service Act 1990; or
- (b) a position in the Public Service, in the Police Service, in the Education Teaching Service, in the service of a public authority or in the service of Parliament; or
- (c) a statutory position (or other position in the service of the Crown) to which an appointment is made by the Governor, a Minister or a Department Head; or
- (d) the office of a member of the Legislative Council or of the Legislative Assembly; or
- (e) the office of a Minister of the Crown.

### **PART 3—PUBLIC TRANSPORT FACILITIES FUND**

#### **Public Transport Facilities Fund**

**18. (1)** There is established in the Special Deposits Account an account to be called the Public Transport Facilities Fund.

(2) There is payable into the Fund:

- (a) all money appropriated to the Fund from the Consolidated Fund; and
- (b) any interest received in respect of the investment of money belonging to the Fund; and
- (c) any money directed to be paid into the Fund by or under this or any other Act.

(3) There is payable from the Fund:

- (a) money for the construction and maintenance of car and bicycle parking facilities, and other infrastructure, which facilitate access to public transport services to and from the City of Sydney and any other area prescribed under section 6; and
- (b) refunds payable under this Act; and
- (c) any money directed to be paid from the Fund by or under this or any other Act.

(4) Money may be paid under this section from the Fund in accordance with a direction of the Minister.

#### **PART 4—MISCELLANEOUS**

##### **Requiring information**

**19. (1)** For the purpose of determining the number of parking spaces on premises to which this Act applies, or whether they are or were parking spaces to which this Act applies or applied, an officer authorised by the Chief Commissioner may do any of the following:

- (a) require a person to answer any question;
- (b) require a person to state the person's name and place of residence;
- (c) require a person to produce any record or other document;
- (d) inspect and take extracts from or copies of any record or other document;
- (e) remove any record or other document for the purpose of examining or copying it.

**(2)** Such a requirement is not duly made unless, at the time of making the requirement, the person of whom the requirement is made has been informed by the officer that a refusal or failure to furnish the answer, record or document, as the case may be, constitutes an offence.

##### **Failing to give information: offence**

**20.** A person who, without reasonable excuse, fails to answer on demand any question or to furnish on demand any record or document as required under this Part is guilty of an offence.

Maximum penalty: 10 penalty units.

**Entry and inspection**

**21.** For the purpose of determining the number of parking spaces on premises to which this Act applies, or whether they are or were parking spaces to which this Act applies or applied, an officer authorised by the Chief Commissioner may do any of the following:

- (a) enter and inspect any premises to which this Act applies, other than a dwelling;
- (b) inspect any vehicle on those premises.

**Standards for entry and inspection**

**22. (1)** A power conferred by this Act to enter premises, or to make an inspection or take other action on premises, may not be exercised unless the officer proposing to exercise the power:

- (a) has been authorised to do so by the Chief Commissioner; and
- (b) is in possession of a certificate of authority; and
- (c) gives reasonable notice to the occupier of the premises of intention to exercise the power, unless the giving of notice would defeat the purpose for which it is intended to exercise the power; and
- (d) exercises the power at a reasonable time; and
- (e) produces the certificate of authority if required to do so by a person apparently in occupation of the premises; and
- (f) uses no more force than is reasonably necessary to effect the entry or make the inspection.

**(2)** A certificate of authority must:

- (a) state that it is issued under this Act; and
- (b) give the name of the officer to whom it is issued; and
- (c) describe the nature of the powers conferred and the source of the powers; and
- (d) state the date (if any) on which it expires; and
- (e) describe the premises to which this Act applies; and
- (f) state that the powers do not extend to dwellings; and
- (g) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

**(3)** If damage is caused by an officer exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the employer of the officer to the owner of the premises unless the occupier obstructed the exercise of the power.

(4) If a record or other document is taken from premises by an officer who exercises a power to enter the premises, a person otherwise entitled to possession of the record or document is, as far as is practicable, to be allowed access to the record or document and the record or document is to be returned to that person within a reasonable time.

(5) This section does not apply to a power conferred by a search warrant issued under the Search Warrants Act 1985.

(6) In this section, “**certificate of authority**” means a certificate that, to enable an officer to exercise a power conferred by this Act, is issued to the officer by the Chief Commissioner.

### **Search warrants**

**23.** (1) A person who has the written authority of the Chief Commissioner to do so may apply to an authorised justice for a search warrant in relation to premises to which this Act applies if the premises are a dwelling or if admission to the premises has been refused, or an attempt to obtain admission has been, or is likely to be, unsuccessful, and the search warrant is sought in order to exercise a power to enter or inspect conferred by this Act.

(2) An authorised justice to whom application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a person named in the warrant to enter the premises.

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) In this section, “**authorised justice**” has the same meaning as in the Search Warrants Act 1985.

### **Exclusion of personal liability**

**24.** A matter or thing done by the Minister, the Chief Commissioner or an officer or employee of the Minister or the Chief Commissioner or any person acting under the direction or with the authority of the Minister or the Chief Commissioner does not, if the matter or thing was done in good faith for the purpose of executing this Act, and for and on behalf of the Minister or the Chief Commissioner, subject the Minister, the Chief Commissioner or an employee or person so acting personally to any action, liability, claim or demand.

**Obstruction etc.: offence**

25. A person who:

- (a) obstructs, hinders, assaults or threatens an officer authorised by the Chief Commissioner in the performance of the authorised officer's functions under this Act; or
- (b) without lawful excuse, prevents or attempts to prevent a person from giving information to or being questioned by such an officer; or
- (c) threatens any person who has been questioned by, or who has furnished information or documents to, such an officer; or
- (d) impersonates such an officer,

is guilty of an offence.

Maximum penalty: 20 penalty units.

**Contributions if several owners etc.**

26. If one or more of a number of owners, lessees or sublessees pay any sum required to be paid under this Act, those so paying may recover, as a debt, contributions from the other owners, lessees or sublessees (as the case requires) in equal proportions according to the number of owners, lessees or sublessees concerned.

**Appeals**

27. (1) An owner dissatisfied with a decision under this Act as to an assessment of a levy, a variation, a credit, a set-off or a refund of a levy, a demand, an extension of time or an agreement to pay by instalments, or as to a condition in respect of a variation, credit, set-off, refund, extension or agreement, may appeal against such a decision to the Minister.

(2) The Minister is to determine the appeal and notify the appellant and the Chief Commissioner of the determination.

(3) A determination under this section is final.

**Proceedings for offences**

28. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Certificate as to levy**

29. In any proceedings under this Act, a certificate purporting to be signed by the Chief Commissioner certifying that the amount specified in

the certificate as being the amount of a levy payable under this Act in respect of a parking space is due and unpaid, or was due or paid on or before a specified date, or was not paid on or before a specified date, is admissible in those proceedings and is evidence of the particulars contained in the certificate.

### **Delegation**

**30. (1)** The Minister may delegate any of the Minister's functions under this Act other than this power of delegation.

**(2)** The Chief Commissioner may delegate any of the Chief Commissioner's functions under this Act other than this power of delegation.

**(3)** A delegate may subdelegate to any person any function delegated under this section if the delegate is authorised in writing to do so by the delegator.

### **Regulations**

**31. (1)** The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**(2)** In particular, the regulations may make provision for or with respect to the following matters:

- (a) returns to be furnished by owners of premises to which this Act applies;
- (b) the calculation, assessment, collection and recovery of the levy;
- (c) the exemption of parking spaces and persons from the levy and of persons from any requirement to furnish returns;
- (d) variations, credits, set-offs and refunds of the levy;
- (e) extensions of time for payment of the levy;
- (f) agreements for the payment of the levy in instalments;
- (g) the administration of the Fund;
- (h) procedures for hearing and determining appeals under this Act.

**(3)** The regulations may make provision of a savings or transitional nature consequent on the making of any regulation under this Act by virtue of which a change is made in the application of this Act to premises or parking spaces. Such regulations may be expressed to take effect on and from any date during the financial year during which they are published in the Gazette or a later date.

(4) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

### **Transitional provisions**

32. Schedule 1 has effect.

---

## **SCHEDULE 1—TRANSITIONAL PROVISIONS**

(Sec. 32)

### **Credit on levy payable in first year of operation of Act**

1. (1) If a parking space in respect of which a levy is payable on or before 1 September 1992 does not, or will not, exist as a parking space to which this Act applies for a part or all of the financial year commencing on 1 July 1992, the owner by whom the levy is payable may apply to the Chief Commissioner for an appropriate levy credit.

(2) The appropriate levy credit is that proportion of the levy which corresponds to the portion of the financial year for which the space does not, or will not, so exist. However, no credit is to be allowed if the proportion is less than one twelfth.

(3) Once satisfied that grounds for a credit have been established, the Chief Commissioner must set the amount of the credit off against the sum of levies payable by the same owner under this Act, or refund part or all of the credit if the sum has been paid.

(4) However, if during the financial year commencing on 1 July 1992 a parking space does exist as a parking space to which this Act applies for that part of the year in respect of which a credit was allowed under this clause, the Commissioner may demand that an appropriate amount of levy be paid in respect of that part of the year.

(5) Such amount is due and recoverable in accordance with section 10.

### **Obligation of lessee**

2. (1) A lessee of premises to which this Act applies must, unless exempt, pay to the lessor the whole, or such part as is determined in accordance with subclause (2), of the levy required to be paid by the lessor for a financial year in respect of each parking space to which this Act applies occupied under the lease by the lessee at any time during the financial year.



SCHEDULE 1—TRANSITIONAL PROVISIONS—*continued*

(2) If a parking space referred to in subclause (1) is, for only part of the financial year:

- (a) occupied under the lease by the lessee; or
- (b) a parking space to which this Act applies,

the amount to be paid by the lessee is to be reduced proportionately.

(3) The lessee must pay the amount by the day which falls one month after the lease commences or by 1 September in the relevant financial year, whichever day is later.

(4) If a lessee does not pay an amount as required by this clause, the lessor may recover the amount as a debt, together with interest accruing on the amount from the day on which the amount was payable by the lessee, at a rate prescribed by the regulations.

(5) This clause has effect despite the terms of the lease, but only until the earlier of the following:

- (a) the parties to the lease expressly agree that this clause is not to apply in respect of the lease; or
- (b) the rental payable under the lease is or could be reviewed, or the lease could be determined, by either party.

(6) This clause applies as between a lessee and a sublessee in the same way as it applies between a lessor and a lessee.

---

*[Minister's second reading speech made in—  
Legislative Assembly on 7 May 1992  
Legislative Council on 8 May 1992 a.m.]*