

TRAFFIC (PARKING REGULATION) AMENDMENT ACT 1993
No. 34

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Traffic Act 1909 No. 5

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

TRAFFIC (PARKING REGULATION) AMENDMENT ACT 1993
No. 34

NEW SOUTH WALES



Act No. 34, 1993

An Act to amend the Traffic Act 1909 with respect to parking meters, the removal of obstructions and illegally parked vehicles on public streets; and for other purposes. [Assented to 8 June 1993]

Traffic (Parking Regulation) Amendment Act 1993 No. 34

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Traffic (Parking Regulation) Amendment Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Traffic Act 1909 No. 5

3. The Traffic Act 1909 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

(Sec. 3)

(1) Section 2E (**Definitions**):

- (a) In section 2E (1), from paragraph (b) (ii) of the definition of “traffic control facility”, omit “(other than the Local Government Act 1919 or any ordinance under that Act)”.
- (b) In section 2E (1), omit paragraph (c) of the definition of “traffic control facility”.

(2) Section 2I (**Miscellaneous provisions**):

- (a) From section 2I (1) and (2), omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.
- (b) From section 2I (2), omit “any ordinance”, insert instead “any regulation”.
- (c) From section 2I (2), omit “any” where lastly occurring.

(3) Part 3B:

After Part 3A, insert:

PART 3B—PARKING METERS

Definitions

10Q. In this Part:

“**council**” means the council of a local government area;

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

“metered space” means any part of a public street:

- (a) in which a parking meter is installed; and
- (b) which has been marked by painted lines or by any other prescribed method for the purpose of indicating where a vehicle may park on payment of a fee;

“park” includes stand or wait;

“parking meter” means a device:

- (a) installed in a metered space; and
 - (b) designed to indicate or capable of indicating whether the fee fixed in respect of any vehicle parking in that metered space has been paid,
- and includes the stand on which a parking meter is erected;

“vehicle” includes horse.

Parking meters

10R. (1) A council may do all or any of the following:

- (a) provide, with the approval in writing of the Authority, metered spaces in any public street in the area of the council;
- (b) install a parking meter in any such metered space;
- (c) demand and recover in respect of any vehicle parking in any such metered space such fees as may be fixed by resolution of the council (subject to any maximum prescribed by the regulations).

(2) The council may, under this section, provide metered spaces in a public street on land that is not owned by the council, but only with the approval of the owner of that land.

Damage, interference with etc. parking meters

10S. A person who:

- (a) damages a parking meter, or does or causes to be done any act which interferes or is likely to interfere with the proper working of a parking meter; or
- (b) fraudulently operates a parking meter,

is guilty of an offence.

Maximum penalty: 5 penalty units.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

Powers of police in emergency

10T. (1) A police officer may, during a temporary obstruction or danger to traffic or in an emergency:

- (a) direct a person not to cause or permit any vehicle to park in a metered space; or
- (b) direct the owner or driver of a vehicle parking in a metered space to remove the vehicle from the space; or
- (c) if no person appears to be in charge of a vehicle parking in a metered space—remove the vehicle from the space.

(2) A person who, without reasonable excuse, fails to comply with the direction of a police officer under this section is guilty of an offence.

Maximum penalty: 5 penalty units.

Application of money from parking meters

10U. (1) The costs of administering this Part in relation to a local government area are to be borne by the council of that area.

(2) Those costs are taken to include:

- (a) the cost of providing, controlling, maintaining and regulating metered spaces and the parking meters installed in those spaces; and
- (b) the cost of providing and maintaining signs or other devices and marking lines to indicate the position of metered spaces or to indicate the places in any public street within the area of the council concerned where any vehicle (other than a public vehicle) may park or stop.

(3) All fees that a council collects in respect of the operation of parking meters belong to the council.

(4) Any surplus arising from the operation of parking meters prior to 1 July 1993 must be applied towards the cost of providing, improving or managing the following:

- (a) roads;
- (b) traffic facilities;
- (c) parking facilities;
- (d) other public transport facilities.

Traffic (Parking Regulation) Amendment Act 1993 No. 34

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

Any surplus arising from the operation of parking meters on or after 1 July 1993 may be applied at the discretion of the council.

(5) A council must pay to the Authority such amount as is agreed on by the Authority and the council in respect of costs referred to in subsection (2) (b).

(6) Any dispute arising under this section between the council and the Authority is to be resolved by consultation between the Minister for Local Government and the Minister administering this Act.

Regulations relating to parking

10V. Regulations may be made for carrying this Part into effect and, in particular, for or with respect to regulating the installation and use of parking meters and the stopping or parking of any vehicle in a metered space.

This Part not to affect operation of other provisions

10W. Nothing in this Part affects the operation of the provisions of any other Part of this Act, or of any other Act, by or under which functions in relation to the control of traffic are conferred or imposed on the Commissioner of Police or the Authority.

(4) **Section 18B (Penalty notices for certain offences):**

- (a) Omit section 18B (1) (aa), (b) and (f).
- (b) Omit section 18B (1) (bb), insert instead:
 - (bb) has committed, or by virtue of section 646 of the Local Government Act 1993 is guilty of, an offence under section 645 (1) of that Act;
- (c) Omit section 18B (1) (h), insert instead:
 - (h) has committed, or by virtue of section 244 of the Roads Act 1993 is guilty of, an offence to which that section applies;
- (d) From section 18B (2) (b), omit “section 270O or 270R of the Local Government Act 1919”, insert instead “section 646 of the Local Government Act 1993”.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(5) Sections 25 and 26:

After section 24, insert:

Removal of dangers and obstructions to traffic

25. (1) If a danger or obstruction to traffic on a public street is caused by:

- (a) a vehicle that has been involved in an accident or has broken down; or
- (b) any thing that has fallen, escaped or been removed from a vehicle; or
- (c) any container used for transporting materials or refuse (including a building skip),

an authorised officer may remove the vehicle, thing or container and take such other steps as may be necessary to protect the public and facilitate the free flow of traffic.

(2) The appropriate roads authority may, by proceedings brought in a court of competent jurisdiction, recover as a debt from the responsible person the expenses that that authority has incurred in exercising the functions conferred by this section.

(3) In this section:

“appropriate roads authority” means:

- (a) in relation to any public street within a local government area—the council of that area; and
- (b) in relation to a classified road (within the meaning of the Roads Act 1993)—the Authority;

“authorised officer” means:

- (a) an employee in the service of the appropriate roads authority authorised by that authority to exercise the powers conferred by this section; or
- (b) a police officer;

“responsible person” means:

- (a) in relation to a vehicle—the person who had custody of the vehicle at the time of the accident or breakdown; or

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

- (b) in relation to any thing that has fallen, escaped or been removed from a vehicle—the person who had custody of the vehicle at the time of the fall, escape or removal; or
- (c) in relation to a container—the person who had custody of the container at the time it was placed in such a way as to cause danger or an obstruction to traffic.

Removal of unattended motor vehicles from clearways, transit lanes and other places

26. (1) An authorised officer may cause an unattended motor vehicle unlawfully standing on a clearway, transit lane or other prescribed place to be removed in accordance with this section if, in the opinion of the officer, the vehicle is causing, or unless removed is likely to cause, danger to the public or undue traffic congestion.

(2) A motor vehicle is removed in accordance with this section if:

- (a) it is removed to a nearby place at which, in the opinion of the authorised officer concerned, the vehicle may lawfully stand without being likely to cause danger to the public or undue traffic congestion; and
- (b) as soon as practicable after removal, the Authority or the authorised officer concerned reports the removal and the location of the motor vehicle to the police officer in charge of a police station in the vicinity with a request that the owner or other person entitled to possession of the motor vehicle be notified of the place to which it has been removed.

(3) If a motor cycle is moved to the footpath adjacent to the clearway, transit lane or other place where it was standing it is not necessary that the owner or other person entitled to possession of the motor cycle be notified of the place to which it has been removed.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

- (4) If a motor vehicle:
- (a) is removed in accordance with this section; or
 - (b) is attached to a tow-truck for the purpose of being removed pursuant to this section,

the Authority may require the owner of the vehicle or the person who left it unattended to pay to the Authority the prescribed tow-away charge within a time specified by the Authority.

(5) The owner of a vehicle is not required to pay the prescribed tow-away charge if the owner:

- (a) satisfies the Authority that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or
- (b) supplies by statutory declaration to the Authority the name and address of the person (not being the owner) who was in charge of the vehicle at all relevant times; or
- (c) satisfies the Authority that he or she did not know and could not with reasonable diligence have ascertained such name and address.

(6) A person who fails to pay the prescribed tow-away charge within the time specified by the Authority is guilty of an offence.

Maximum penalty: 2 penalty units.

(7) A statutory declaration under subsection (5) (b), if produced in any proceedings against the person named in the declaration and in respect of the offence of failure to pay the prescribed tow-away charge, is prima facie evidence that the person left the vehicle unattended on the clearway, transit lane or other place.

(8) In this section “**authorised officer**” means:

- (a) an employee in the service of the Authority authorised by the Authority to exercise the powers conferred by this section; or
- (b) a police officer.

Traffic (Parking Regulation) Amendment Act 1993 No. 34

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(6) Section 27, Schedule 1:

At the end of the Act, insert:

Savings, transitional and other provisions

27. Schedule 1 has effect.

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 27)

Part 1—Preliminary

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Traffic (Parking Regulation) Amendment Act 1993;

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on and from the date of commencement of this clause or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.

**Part 2—Provisions consequent on the enactment of
the Traffic (Parking Regulation) Amendment Act 1993**
Definition

2. In this Part:

“**amending Act**” means the Traffic (Parking Regulation) Amendment Act 1993.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
*continued***Parking meters etc.**

3. Any metered space provided, or any parking meter installed, under Division 13A of Part 9 of the Local Government Act 1919 immediately before the repeal of that Division is taken to be a metered space provided, or a parking meter installed, under Part 3B of this Act.

Fees for parking at parking meter

4. Any resolution made by a council under section 270H of the Local Government Act 1919 providing for the fixing of fees or charges and in force immediately before the repeal of that section, is taken to be a resolution made by the council providing for the fixing of fees under section 10R of this Act, as inserted by the amending Act.

Continuation of Ordinance 34A

5. (1) Ordinance No. 34A under the Local Government Act 1919 is taken to be a regulation under this Act, as amended by the amending Act, and may be amended and repealed accordingly.

(2) A reference in that ordinance to a provision of the Local Government Act 1919 is taken to extend to the corresponding provision (if any) of this Act.

Application of section 25

6. Anything done under section 63 of the State Roads Act 1986 or section 267A of the Local Government Act 1919 is, after the repeal of those sections, taken to have been done under section 25 of this Act, as inserted by the amending Act.

Application of section 26

7. (1) Anything done under section 65 of the State Roads Act 1986 is, after the repeal of that section, taken to have been done under section 26 of this Act, as inserted by the amending Act.

Traffic (Parking Regulation) Amendment Act 1993 No. 34

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(2) However, a failure to pay a charge is not an offence under section 26 if the charge was incurred before that repeal.

*[Minister's second reading speech made in—
Legislative Assembly on 11 March 1993
Legislative Council on 20 May 1993]*