



New South Wales

Local Government Amendment (Parking and Wheel Clamping) Act 1998 No 62

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New South Wales

Local Government Amendment (Parking and Wheel Clamping) Act 1998 No 62

Act No 62, 1998

An Act to amend the *Local Government Act 1993* in relation to parking and wheel clamping of vehicles; and for related purposes. [Assented to 30 June 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Parking and Wheel Clamping) Act 1998*.

2 Commencement

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

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 650 Free parking areas

Insert after section 650 (5) (after the penalty provision):

- (6) The owner of any private land may enter into an agreement with the council under which the land, or any part of the land, is set aside for use as a free parking area.
- (7) It is the duty of the Director-General to establish guidelines to be followed by 'councils in relation to agreements of the kind referred to in subsection (6), including guidelines as to:
 - (a) the circumstances in which a council may enter into such an agreement, and
 - (b) the matters for which such an agreement must or must not make provision, and
 - (c) the exercise by a council of any functions conferred on it by such an agreement.

[2] Chapter 16, Part 5A

Insert after section 651:

Part 5A Immobilisation and detention of vehicles

651A Application of Part

This Part applies to the whole of the State.

651B Immobilisation of vehicles

- (1) A person must not immobilise a vehicle owned by any other person by means of wheel clamps, or by means of any other device prescribed by the regulations, except with the consent of that other person.

Maximum penalty: 20 penalty units.

- (2) This section does not affect any right to immobilise a vehicle that a person may have:
- (a) as the driver or person in charge of the vehicle, or
 - (b) under the terms of a court order, or
 - (c) under the terms of a credit contract (within the meaning of the *Consumer Credit (New South Wales) Code*) in force with respect to the vehicle.
- (3) For the purposes of this section, an owner or occupier of premises is not in charge of a vehicle merely because the vehicle has been left on those premises.

651C Unlawful detention of vehicles

- (1) A person who takes possession of a vehicle that has been left on premises must not:
- (a) fail to release the vehicle on demand to any person having a lawful right to the possession or control of the vehicle, or
 - (b) demand any payment for or in relation to the release of the vehicle.

Maximum penalty: 20 penalty units.

- (2) This section does not give any person a right to take possession of a vehicle if the person does not have that right apart from this section, but does not affect any right to detain a vehicle that a person may have:
- (a) under the *Impounding Act 1993* or any other Act, or
 - (b) under a lien, or
 - (c) under the terms of a court order, or
 - (d) under the terms of an agreement or arrangement in force with respect to the vehicle.
- (3) The remedy at common law of distress damage feasant is abolished to the extent to which it would otherwise be available in relation to a vehicle left on premises.

[3] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Local Government Amendment (Parking and Wheel Clamping) Act 1998

[4] Dictionary

Insert “, and includes any area of land the subject of an agreement referred to in section 650 (6)” after “fee or charge” in the definition of *free parking area*.

[Minister's second reading speech made in—
Legislative Assembly on 26 May 1998
Legislative Council on 17 June 1998]