



New South Wales

Parking Space Levy Regulation 1997

under the
Parking Space Levy Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Parking Space Levy Act 1992*.

BRIAN LANGTON, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the *Parking Space Levy Regulation 1992*. The new Regulation:

- (a) extends the operation of the Act to the same part of North Sydney as that to which the Act extended under the repealed Regulation (clause 5), and
- (b) declares certain kinds of parking space to be “exempt parking spaces” and therefore not liable to the parking space levy under the Act (clause 6), and
- (c) provides for the means by which the number of parking spaces on premises is to be determined (clause 7), and
- (d) provides for the circumstances under which a parking space that is used for casual parking can become an exempt parking space (clause g), and
- (e) provides for the circumstances in which a parking space that is used for tenant parking can become an exempt parking space (clause 9), and
- (f) contains other minor, consequential or ancillary provisions (Parts 1 and 3).

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Explanatory note

This Regulation is made under the *Parking Space Levy Act 1992*, including section 31 (the general regulation making power) and sections 4, 6, 7, 8 and 17.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Parking Space Levy Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Parking Space Levy Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1997.

3 Definition

In this Regulation:

the Act means the *Parking Space Levy Act 1992*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

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Clause 5 Parking Space levy Regulation 1997

Part 2 Application of Act

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5 Additional area of application of the Act

Each area described in the Table to this clause is prescribed under section 6 of the Act as a business district for the purposes of the Act:

Table

That part of the North Sydney local government area shown edged with a heavy broken line on the plan entitled *Parking Space Levy Act 1992—Additional Area of Application*, signed by the Minister, dated 1 July 1992 and deposited in the office of the Department of Transport in Sydney.

6 Other circumstances of exemption of parking space

For the purposes of section 7 (3) of the Act, 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, without charge, of an ambulance, fire brigade motor vehicle or police motor vehicle, but only if the parking space is the one used for garaging the vehicle overnight,
- (b) the parking, without charge, of a mobile crane, a forklift truck, a tractor or a front-end loader,
- (c) the parking, without charge, of a vehicle which is used only for carrying out deliveries or only for the provision of services, but only if the parking space is the one used for garaging the vehicle overnight on premises owned or occupied by the owner of the vehicle,
- (d) any purpose specified in section 7 (2) of the Act.

7 Determination of number of parking spaces

- (1) For the purposes of the Act, the number of such parking spaces on any premises as are not individually delineated by permanently marked lines is to be assessed in accordance with this clause.
- (2) In a case where a development consent under the *Environmental Planning and Assessment Act 1979* specifies the number of parking spaces that the premises are to contain, the number of parking spaces is the number so specified.

- (3) In any other case, the number of parking spaces is the number obtained by taking the total area occupied by the parking spaces and dividing it by 25.2 square metres and disregarding any remainder.
- (4) For the purposes of this clause, a sign or temporary barrier purporting to indicate that a space is not a parking space is not, of itself, evidence that the space is not a parking space.

8 Period when casual parking space is an exempt parking space

- (1) For the purposes of the Act, the length of time in any financial year for which a parking space is an exempt parking space is the number of days during that year on which, in the opinion of the Chief Commissioner, the parking space was set aside for use as a casual parking space but not used for the parking of a motor vehicle.
- (2) For the purposes of this clause, a *casual parking space* is a parking space which, in the opinion of the Chief Commissioner, is set aside solely for casual parking.
- (3) In forming an opinion under subclause (2) that a parking space is a casual parking space, the Chief Commissioner is to have regard to the following matters:
 - (a) the terms of any agreement as to the use of that space,
 - (b) whether the space is generally available for use by a member of the public,
 - (c) whether a person may use that space as a parking space at any time when it is not actually occupied by a vehicle,
 - (d) whether the space is subject to any standing arrangement (whether formal or informal) for its use or reservation.

9 Period when tenant's parking space is an exempt parking space

- (1) For the purposes of the Act, the length of time in any financial year for which a parking space is an exempt parking space is the number of days during that year on which the parking space:
 - (a) was not subject to a lease or licence under which a tenant of part or all of the premises in which the space is located had exclusive use of the space, and
 - (b) was not available for use except under such a lease or licence.
- (2) This clause applies does not limit the operation of clause 8.

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Part 3 Miscellaneous

Part 3 Miscellaneous

10 Public sector arrangements: person responsible

- (1) For the purposes of section 17 (4) of the Act, the prescribed person with whom a public servant specified in Column 1 of Schedule 1 is to make arrangements of the kind referred to in that subsection is the person specified in Column 2 of that Schedule in respect of that public servant.
- (2) The prescribed person may nominate any other person with whom the public servant is to make such arrangements.
- (3) An amendment to Schedule 1 does not apply to arrangements in force immediately before the commencement of the amendment, and that Schedule, as in force when the arrangements were entered into, continues to apply to the arrangements as if it had not been amended.
- (4) In this clause, *public servant* means a person in a public sector position within the meaning of section 17 of the Act.

11 Repeal

- (1) The *Parking Space Levy Regulation 1992* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Parking Space Levy Regulation 1992*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Public sector arrangements

(Clause 10)

| Column 1 | Column 2 |
|--|--|
| 1 A person in a position in the Chief Executive Service or Senior Executive Service under the <i>Public Sector Management Act 1988</i> or in the Police Service Senior Executive Service under the Police Service Act 1990 | The person with whom the person in that position has entered into a contract of employment in accordance with that Act |
| 2 A person in a position in the Public Service | The appropriate Department Head, within the meaning of the <i>Public Sector Management Act 1988</i> |
| 3 A person in a position in the Police Service | The Commissioner of Police |
| 4 A person in a position in the Education Teaching Service | The Director-General of the Department of School Education |
| 5 A person in a position in the service of a public authority | The chief executive of that authority |
| 6 A person in a statutory position (or any position in the service of the Crown not otherwise covered in this Table) | The person who for the time being makes appointments to such a position or, if made by the Governor, the Minister who for the time being makes recommendations for appointments to such a position |
| 7 A person holding the office of a member of the Legislative Council | The Clerk of the Parliaments |
| 8 A person in a position in the service of the Legislative Council | The Clerk of the Parliaments |
| 9 A person holding the office of a member of the Legislative Assembly | The Clerk of the Legislative Assembly |
| 10 A person in a position in the service of the Legislative Assembly | The Clerk of the Legislative Assembly |
| 11 A member of the joint personnel of Parliament | The Clerk of the Parliaments and the Clerk of the Legislative Assembly |
| 12 A person holding the office of a Minister of the Crown | The Treasurer |