



New South Wales

Parking Space Levy Regulation 2019

under the

Parking Space Levy Act 2009

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Parking Space Levy Act 2009*.

ANDREW CONSTANCE, MP
Minister for Transport and Roads

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Parking Space Levy Regulation 2009*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) establishes leviable districts for the purposes of the *Parking Space Levy Act 2009*, and
- (b) provides a method for calculating the number of parking spaces, including stacked parking spaces, on any premises, and
- (c) sets out the circumstances in which a parking space on leviable premises is exempt from payment of a levy, and
- (d) for each financial year, fixes the base rate of the parking space levy and provides a method for calculating the amount of the levy in relation to any premises, and
- (e) makes provision for persons holding certain government service positions to contribute towards the levy payable in respect of any parking space to which those persons have an entitlement in their capacity as government employees, and
- (f) makes provision for consequential, savings and transitional matters.

This Regulation is made under the *Parking Space Levy Act 2009*, including sections 4 (1), 7 (2), 8 (2) and 14 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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1 Name of Regulation

This Regulation is the *Parking Space Levy Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Parking Space Levy Regulation 2009*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

base rate—see clause 9.

car stacker means an apparatus that can stack 2 or more motor vehicles on 2 or more levels.

Category 1 area means an area described in Part 1 of Schedule 1.

Category 2 area means an area described in Part 2 of Schedule 1.

exempt parking space—see clause 8.

mobility parking scheme authority means an authority of that description issued pursuant to the regulations under the *Road Transport Act 2013*.

parking area means that part of any premises that is used, or set aside, for the parking of motor vehicles.

Public Service senior executive has the same meaning as in section 33 (2) of the *Government Sector Employment Act 2013*.

regular parking space means a parking space that is not a stacked parking space.

stacked parking space means a parking space created by a car stacker.

the Act means the *Parking Space Levy Act 2009*.

Transport for NSW has the same meaning as in the *Transport Administration Act 1988*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Leviable districts (section 4 (1), definition of “leviable district”)

Each district referred to in Schedule 1 is established as a leviable district for the purposes of the Act.

5 Leviable premises—exclusion of on-street parking (section 7 (2))

The carriageway of any street, road or lane open to or used by the public is declared not to be leviable premises for the purposes of the Act.

6 Stacked parking spaces (section 4 (1), definition of “parking space”)

A stacked parking space is declared to be a parking space for the purposes of the Act.

7 Calculation of parking space numbers (section 14)

- (1) The number of parking spaces on any premises is the sum of:
 - (a) the number of regular parking spaces in each parking area on the premises, and
 - (b) the number of stacked parking spaces on the premises.
- (2) The number of regular parking spaces in a parking area is the sum of the following:
 - (a) in respect of those portions of the parking area in which parking spaces are designated in any way:
 - (i) the number of designated parking spaces in those portions, or
 - (ii) the number of parking spaces obtained by dividing the total area of those portions (in square metres) by 18, and disregarding any remainder,whichever is the greater,
 - (b) in respect of those portions of the parking area in which parking spaces are not designated in any way, the number of parking spaces obtained by dividing the area of those portions (in square metres) by 18, and disregarding any remainder.
- (3) The number of stacked parking spaces on any premises is the maximum number of motor vehicles that can reasonably be accommodated by the car stackers on the premises.

8 Exempt parking spaces (section 14)

- (1) A parking space on leviable premises in a Category 1 or Category 2 area is an exempt parking space while it is set aside exclusively for one or more of the following purposes:
 - (a) the parking of bicycles or motor cycles,
 - (b) the parking of motor vehicles by persons who reside on the premises or on adjoining premises,
 - (c) the parking of motor vehicles by persons who hold mobility parking scheme authorities,
 - (d) the parking of motor vehicles for the purpose of loading or unloading goods or passengers, but not if vehicles are permitted to park in the space otherwise than while goods or passengers are being loaded or unloaded,
 - (e) the parking of motor vehicles by persons who, on a casual basis, provide services to the premises, other than vehicles used by employees, contractors or consultants whose usual place of work is on the premises,
 - (f) the parking (without charge) of a mobile crane, a forklift truck, a tractor or a front-end loader,
 - (g) 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,

- (h) the parking (without charge) of a motor vehicle used only for the carrying out of deliveries or the provision of services, but only if:
 - (i) the parking space is the one used for garaging the vehicle overnight, and
 - (ii) the owner of the vehicle is also the owner or occupier of the premises,
 - (i) in the case of premises owned or occupied by the council of the local government area, the parking (without charge) of motor vehicles by persons other than officers or employees of the council,
 - (j) in the case of premises owned or occupied by:
 - (i) 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
 - (ii) a religious body within a denomination in respect of which such a proclamation is in force, or
 - (iii) a public charity or public benevolent institution,the parking (without charge) of any motor vehicle.
- (2) For the purposes of subclause (1) (b), the several lots in a strata scheme under the *Strata Schemes Development Act 2015* are taken to adjoin each other, regardless of their location.
- (3) A parking space on leviable premises in a Category 1 or Category 2 area is an exempt parking space while it is an unused casual parking space or an unleased tenant's parking space.
- (4) For the purposes of subclause (3):
- (a) a parking space is an ***unused casual parking space*** if it is set aside for use by the public for the parking of motor vehicles but remains unused for that purpose, and
 - (b) a parking space is an ***unleased tenant's parking space*** if it is unavailable for use as a parking space except under a lease or licence under which a tenant of the premises in which it is located has exclusive use of it and no such lease or licence is in force.
- (5) A parking space on leviable premises in a Category 2 area is an exempt parking space while it is set aside exclusively for one or more of the following purposes:
- (a) the parking of motor vehicles by customers of a retail shop,
 - (b) the parking of motor vehicles on the shopping centres referred to in Schedule 2 by persons employed at a retail shop on those premises,
 - (c) the parking of motor vehicles by guests or customers of a hotel or motel,
 - (d) the parking of motor vehicles by members and guests of members of a registered club,
 - (e) the parking of motor vehicles by customers of a restaurant,
 - (f) the parking of motor vehicles by patients of a medical centre,
 - (g) the parking of motor vehicles by customers of a car sales establishment, car servicing or repair centre, or car wash,
 - (h) the parking of motor vehicles by clients and guests of clients of a funeral parlour,
 - (i) the parking of motor vehicles that are displayed or stored on the premises for the purpose of their being offered for sale or hire.
- (6) In this clause:

medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

retail shop has the same meaning as in the *Retail Leases Act 1994*.

9 Base rate (section 8)

- (1) For the financial year beginning 1 July 2009, the base rate of the levy is:
 - (a) \$2,000, in relation to premises in a Category 1 area, and
 - (b) \$710, in relation to premises in a Category 2 area.
- (2) For any subsequent financial year, the base rate of the levy in relation to premises in a Category 1 or Category 2 area is the CPI adjusted levy for premises in that area, as determined in accordance with the following formula:

$$C = \frac{L \times A}{B}$$

where:

C is the CPI adjusted levy being determined (with amounts of less than \$5 being rounded down to the next lower multiple of \$10 and amounts of \$5 or more being rounded up to the next higher multiple of \$10).

L is the base rate for the base year for premises in that area.

A is the sum of the consumer price index numbers for the June, September, December and March quarters immediately prior to 1 April of the year preceding the financial year for which the base rate is being calculated.

B is the sum of the consumer price index numbers for the June, September, December and March quarters immediately prior to 1 April of the year preceding the base year.

- (3) In this clause:

base year means the financial year for which the base rate is fixed under subclause (1).

consumer price index means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

10 Amount of levy (section 8)

The amount of the levy for any premises for any financial year is the sum of the amounts determined in accordance with the following formula in relation to each parking space on the premises:

$$A = \frac{B \times N}{Y}$$

where:

A represents the amount payable in relation to the parking space.

B represents the base rate of the levy for the premises for that year.

N represents the number of days during the previous financial year for which:

- (a) the premises were in a leviable district, and
- (b) the parking space was in existence, and
- (c) the parking space was not an exempt parking space.

Y represents the number of days in the previous financial year (365 or 366, as the case may be).

11 Notice of base rate

- (1) On or before 1 July in each financial year, the Minister is to publish a notice in the Gazette specifying the base rate of the levy for that year:
 - (a) for premises within the Category 1 areas, and
 - (b) for premises within the Category 2 areas, as fixed under clause 9.
- (2) A failure to publish such a notice for a financial year does not affect the validity of the levy for that year.

12 Obligations of persons in government sector positions

- (1) This clause applies to a government employee who is entitled to use one or more parking spaces in his or her capacity as a government employee, other than a government employee who is the holder of a mobility parking scheme authority.
- (2) The government employee must make arrangements for payment of the whole or a proportion of the levy payable for one of those spaces commensurate with the use the government employee makes of the space or spaces in conjunction with travel by the government employee to or from the government employee's place of work for duties during the government employee's normal working hours at that place.
- (3) The arrangements must be entered into with the relevant person on or before:
 - (a) the day occurring one month after the relevant entitlement arises, or
 - (b) 1 September in the relevant financial year, whichever is the later.
- (4) Payments in accordance with those arrangements are to be made by the government employee out of his or her remuneration as a government employee.
- (5) This clause applies despite any contract to the contrary.
- (6) In this clause:

government employee means a person who holds a government sector position.

government sector position means:

- (a) a position in the Public Service within the meaning of Part 4 of the *Government Sector Employment Act 2013*, including a position as a Public Service senior executive, or
- (b) a position in the NSW Police Force within the meaning of the *Police Act 1990*, including a position as a NSW Police Force senior executive, or
- (c) a position in the Teaching Service, in the NSW Health Service, in the Transport Service of New South Wales, in the service of a public authority or in the service of Parliament, or
- (d) 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 Secretary of a Department, or
- (e) the office of a member of the Legislative Council or of the Legislative Assembly, or
- (f) the office of a Minister of the Crown.

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).

relevant person, in relation to a government employee, means the person specified in Schedule 3 in relation to the government sector position held by that employee, or such other person as that person may nominate for the purposes of this clause.

- (7) An amendment to Schedule 3 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.

13 Repeal and savings

- (1) The *Parking Space Levy Regulation 2009* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Parking Space Levy Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Leviable districts

(Clauses 3 and 4)

Part 1 Category 1 areas

1 City of Sydney

That part of the City of Sydney shown edged with a heavy unbroken line on the City of Sydney Leviable District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

2 North Sydney

That part of North Sydney shown edged with a heavy broken line on the North Sydney Leviable District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

Part 2 Category 2 areas

3 Bondi Junction

That part of Bondi Junction shown edged with a heavy broken line on the Bondi Junction Leviable District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

4 Chatswood

That part of Chatswood shown edged with a heavy broken line on the Chatswood Leviable District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

5 Parramatta

That part of Parramatta shown edged with a heavy broken line on the Parramatta Leviable District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

6 St Leonards

That part of St Leonards shown edged with a heavy broken line on the St Leonards Leviale District Map:

- (a) approved by the Minister and in force immediately before the making of this Regulation, and
- (b) published on the NSW legislation website on the commencement of this Regulation.

Schedule 2 Shopping centres

(Clause 8)

Premises	Address	Bounded generally by
Bondi Junction		
Eastgate Shopping Centre	71–85 Spring Street, Bondi Junction	Spring St, Newland St and Ebley St
Westfield Bondi Junction Shopping Centre	480–510 Oxford Street, Bondi Junction	Grafton St, Grosvenor St, Bronte Rd, Gray St, Ann St, Ebley St, Hollywood Ave and Adelaide St
Chatswood		
Chatswood Chase Shopping Centre	345 Victoria Avenue, Chatswood	Archer St, Victoria Ave and Havilah St
Myer Department Store	49–51 Albert Avenue, Chatswood	Victor St, Albert Ave, Anderson St and Victoria Ave Mall
Westfield Chatswood Shopping Centre	1 Anderson Street, Chatswood	Anderson St, Albert Ave, Spring St and Victoria Ave
Parramatta		
Westfield Parramatta Shopping Centre	159–175 Church Street, Parramatta	Argyle, O’Connell, Campbell and Church Sts

Schedule 3 Public sector arrangements

(Clause 12)

1	A person holding a position in the Public Service within the meaning of Part 4 of the <i>Government Sector Employment Act 2013</i> (other than a position as a Public Service senior executive)	The appropriate Secretary of Department within the meaning of the <i>Government Sector Employment Act 2013</i>
2	A person holding a position as a Public Service senior executive	The person with whom the person in that position has entered into a contract of employment in accordance with the <i>Government Sector Employment Act 2013</i>
3	A person holding a position in the NSW Police Force within the meaning of the <i>Police Act 1990</i> (other than a position as a NSW Police Force senior executive)	The Commissioner of Police
4	A person holding a position as a NSW Police Force senior executive	The person with whom the person in that position has entered into a contract of employment in accordance with the <i>Police Act 1990</i>
5	A person holding a position in the Teaching Service	The Secretary of the Department of Education
6	A person holding a position in the NSW Health Service	The Health Secretary
7	A person holding a position in the Transport Service of New South Wales	The Transport Secretary
8	A person in a position in the service of a public authority	The chief executive of that authority
9	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
10	A person holding the office of a member of the Legislative Council	The Clerk of the Legislative Council
11	A person in a position in the service of the Legislative Council	The Clerk of the Legislative Council
12	A person holding the office of a member of the Legislative Assembly	The Clerk of the Legislative Assembly
13	A person in a position in the service of the Legislative Assembly	The Clerk of the Legislative Assembly
14	A member of the joint personnel of Parliament	The Clerk of the Legislative Council and the Clerk of the Legislative Assembly
15	A person holding the office of a Minister of the Crown	The Treasurer