

Act 1992 No. 32

PARKING SPACE LEVY BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill 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. In the first instance, the revenue will be applied to the construction of car and bicycle parking facilities at railway stations outside those districts, or used to secure loans to finance such construction.

The levy is designed to be met ultimately by the occupiers or users of those spaces. It will first fall due in the financial year 1992–1993 and for that year will be fixed at \$200 per parking space.

PART—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 July 1992.

Clause 3 specifies the object of the proposed Act.

Clause 4 is an interpretation provision (including definitions of “Chief Commissioner”, “exempt”, “financial year”, “levy”, “parking space”, “parking space to which this Act applies”, “premises” and “premises to which this Act applies”) for the purposes of the proposed Act.

Clause 5 specifies that the Crown is bound by the proposed Act.

Clause 6 states that the proposed Act applies to premises within the City of Sydney and to premises in any area prescribed by the regulations as a business district for the purposes of the proposed Act.

Clause 7 indicates that the proposed Act applies to parking spaces on premises to which the proposed Act applies, but specifies a list of standard exemptions to ensure that the main incidence of the levy is on off-street commuter parking spaces. Off-street parking spaces used by cyclists, motor-cyclists, residents, delivery staff, service staff for disabled persons are exempt (as are free municipal car parks and free car parks at churches and premises occupied by charitable or community organisations). Further categories of exemption may be added by regulation.

Clause 8 enables regulations to be made in relation to determining the numbers of parking spaces on any premises and to what extent they are or were spaces to which the proposed Act applies.

PART 2—IMPOSITION OF LEVY

Clause 9 is the central provision imposing, in the first instance on owners, the obligation to pay by 1 September each financial year a levy for each off-street parking space which was not exempt during the previous financial year.

Clause 10 empowers the Commissioner to sue for outstanding levy amounts and to agree with the Minister as to a commission to be deducted by the Chief Commissioner from revenue under the proposed Act.

Clause 11 specifies that the levy for the first year of operation is to be \$200. For later years, the levy will be automatically adjusted for inflation under the following clause.

Clause 12 specifies the adjustment process (according to changes in the Consumer Price Index or other appropriate index).

Clause 13 provides for a reduction in the amount of levy payable if a parking space exists only for part of a financial year.

Clause 14 creates a statutory trust in order to ensure that the levy collected under the proposed Act is earmarked for the objects of the proposed Act.

Clause 15 requires owners to furnish returns in relation to the parking spaces to which the proposed Act applies on their premises.

Clause 16 provides for variations and refunds of the levy in cases where there has been an incorrect assessment or payment of the levy, for extensions of time for the payment of the levy, for payment by instalments and for cases where the proposed Act would operate to cause hardship.

Clause 17 requires a person who holds a public sector position (as defined), who enjoys the use of one or more parking spaces and who is not exempt to pay a sum equivalent to the levy payable for one of those spaces.

PART 3—PUBLIC TRANSPORT FACILITIES FUND

Clause 18 establishes a Public Transport Facilities Fund into which money is to be paid from the Consolidated Fund in an amount at least equivalent to the amount of levy collected. The Fund is to be used principally to establish and maintain infrastructure (for example car and bicycle parking facilities at suburban railway stations) to encourage the use of public transport to and from central areas.

PART 4—MISCELLANEOUS

Clause 19 gives an officer authorised by the Chief Commissioner of Stamp Duties power to obtain information relating to parking spaces on premises to which the proposed Act applies.

Clause 20 creates an offence of failing to provide such information.

Clause 21 allows an officer authorised by the Chief Commissioner to enter and inspect non-residential premises, and to inspect vehicles on the premises, for the purposes of the proposed Act.

Clause 22 requires an authorised officer to show a certificate of authority on request when entering premises or inspecting a vehicle, and to adhere to a number of standards in carrying out an entry or inspection.

Clause 23 provides for search warrants to be issued to enter residential premises and for other cases where entry cannot be gained without them and specifies the conditions for their issue.

Clause 24 prevents a person who is carrying out functions under the proposed Act in good faith from being sued or prosecuted.

Clause 25 creates an offence of obstructing the exercise by an authorised officer of the Chief Commissioner's powers under the proposed Act.

Clause 26 provides for contributions to be paid to a joint owner etc. who has made payments under the proposed Act by the joint owners etc. who have not.

Clause 27 provides for appeals to be heard by the Minister.

Clause 28 provides for the summary trial of offences against the proposed Act or the regulations.

Clause 29 is an evidentiary provision to ensure that a certificate by the Chief Commissioner that an amount of levy is payable etc. is admissible as evidence of that fact in a court of law.

Clause 30 enables the delegation and subdelegation of the Minister's and the Chief Commissioner's functions under the proposed Act.

Clause 31 enables regulations to be made on procedural matters in relation to the proposed Act and to exempt persons or parking spaces from the levy. Regulations may also be made of a savings or transitional nature in relation to any change in the application of the Act caused by the making of a regulation.

Clause 32 is a formal provision giving effect to the transitional provisions in Schedule 1.

Schedule 1 contains transitional provisions:

Clause 1 provides for pro-rata credits of levy to apply in the first year of operation of the proposed Act if a parking space becomes exempt during 1992–1993. (This will mean that although that financial year's levy is expressed to be based on what was a parking space to which the proposed Act applied during the previous financial year, 1991–1992 will in fact be only an initial guide for the assessment of the levy payable by 1 September in 1992).

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Clause 2 requires lessees who occupy parking spaces to reimburse the owner for the levies on those spaces, unless the lessees are exempt. The proposed Act envisages that eventually this will be a matter for agreement between the owner and the occupier, but in the meantime seeks to ensure that the user of the parking space is the one who pays.
