

# Parking Space Levy Regulation 1997

[1997-461]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Parking Space Levy Regulation 1997



New South Wales

## 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.

## Part 2 Application of Act

### 5 Additional areas of application of Act

- (1) Each area described in Part 1 of the Table to this clause is prescribed as a Category 1 area for the purposes of the Act.
- (2) Each area described in Part 2 of the Table to this clause is prescribed as a Category 2 area for the purposes of the Act.

#### Table

##### Part 1—Category 1 areas

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.

##### Part 2—Category 2 areas

Those parts of Bondi Junction, Chatswood, Parramatta and St Leonards shown edged with a heavy broken line on the plan entitled *Parking Space Levy Act 1992—Category 2 Areas*, signed by the Minister, dated 1 July 2000 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.

### 6A Exemptions in category 2 areas

- (1) A parking space on premises to which this clause applies is an exempt parking space if the parking space is provided or made available for the use of customers of, or persons employed at, a retail shop on those premises.
- (2) The Act applies to parking spaces on premises to which this clause applies as if this clause had taken effect on 1 July 2001.
- (3) This clause applies to premises described in the Table to this clause, as shown on the plan marked “Parking space exemptions in Category 2 areas” signed by the Minister, dated 30 June 2002 and deposited in the office of the Department of Transport in Sydney.

#### Table

Levy Area	Premises	Address	Bounded generally by
<b>Parramatta</b>	Westfield Shoppingtown	171–175 Church Street Parramatta	Argyle, O’Connell, Campbell and Church Sts
<b>Chatswood</b>	Chatswood Chase Shopping Centre	345 Victoria Avenue, Chatswood	Archer St, Victoria Ave and Havilah St

<b>Bondi Junction</b>	Grace Bros Department Store	43–45 Albert Avenue, Chatswood	Victor St, Albert Ave, Anderson St and Victoria Ave Mall
	Westfield Shoppingtown	392 Victoria Avenue, Chatswood	Anderson St, Albert Ave, Spring St and Victoria Ave
	Westfield Shoppingtown	480–510 Oxford Street, Bondi Junction	Grafton St, Grosvenor St, Bronte Rd, Oxford St and Cook La
	Carousel Shopping Centre	530 Oxford Street, Bondi Junction	Grafton St, Cook La, Oxford St and Adelaide St
	Eastgate Shopping Centre	71–85 Spring Street, Bondi Junction	Spring St, Newland St and Ebley St
	Grace Bros Department Store	217 Oxford Street, Bondi Junction	Oxford St through to Gray St, Hollywood Av and Waverley St

## 6B Assessment of exemptions for parking spaces

- (1) In assessing for the purposes of section 7 of the Act whether a parking space is set aside for a purpose, the Chief Commissioner is to have regard to the following principles:
  - (a) the presence of measures (such as access control measures) or other features to limit the use of a parking space to use for a particular purpose or purposes indicates that the parking space is set aside for that purpose or those purposes,
  - (b) the absence of measures or other features as described in paragraph (a) indicates that a parking space is not set aside for any particular purpose,
  - (c) a parking space in a parking area that forms part of a retail shopping centre (being a parking area that is in the same building as the shopping centre and that operates generally only at times when shops in the shopping centre are open for business) should be considered to be set aside for the parking of a motor vehicle by customers of a retail shop, unless the parking space is a non-retail space as provided by subclause (2),
  - (d) the fact that a parking space is available or permitted to be used for a purpose, or is indicated (by advertising or otherwise) to be available for use for a purpose, does not of itself indicate that the parking space is set aside for that purpose.
- (2) A parking space is a **non-retail space** for the purposes of subclause (1) (c) if it is available for the use of persons who may not be customers of a retail shop in the retail shopping centre concerned.

- (3) In assessing for the purposes of section 7 of the Act whether a parking space on premises is used exclusively for a purpose, the Chief Commissioner may make a determination based on such investigation, study or survey as to the use of parking spaces on the premises as the Chief Commissioner thinks fit.
- (4) For the purposes of the making of a determination under subclause (3), the Chief Commissioner may require the owner of premises on which there is a parking space to which the Act applies to carry out and report the results of such investigation, study or survey as to the use of parking spaces on the premises as the Chief Commissioner may from time to time direct.

#### **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.

## **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.

### **10A Temporary exemption—new City of Sydney**

The owner of premises located in a part of the City of Sydney that, immediately before 8 May 2003, was not a part of the City of Sydney, is exempt from the following:

- (a) any requirement to pay the levy that would otherwise be payable under section 9 of the Act on 1 September 2003 in respect of a parking space on those premises,
- (b) any requirement to furnish a return that would otherwise be required to be furnished under section 15 of the Act on 1 September 2003 in respect of a parking space on those premises.

## 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 <i>Police Service Act 1990</i>	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