

# Parking Space Levy Act 1992 No 32

[1992-32]



New South Wales

## Status Information

### Currency of version

Historical version for 22 July 2003 to 16 January 2005 (accessed 1 December 2024 at 22:24)

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### Provisions in force

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

### Notes—

- **Does not include amendments by**  
[Teaching Services Amendment Act 2004 No 114](#) (not commenced)

### Authorisation

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File last modified 21 December 2004

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# Parking Space Levy Act 1992 No 32



New South Wales

An Act to impose a levy on off-street parking spaces in certain areas and to provide for the application of the revenue.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Parking Space Levy Act 1992*.

### 2 Commencement

This Act commences on 1 July 1992.

### 3 Object

The object of this Act 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.

### 3A Taxation Administration Act 1996

This Act is to be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

### 4 Definitions

(1) In this Act:

**Category 1 area** means:

- (a) the City of Sydney, or
- (b) any area prescribed by the regulations as a Category 1 area for the purposes of this Act.

**Category 2 area** means any area prescribed by the regulations as a Category 2 area for the purposes of this Act.

**Chief Commissioner** means the Chief Commissioner of State Revenue referred to in section 60 of the *Taxation Administration Act 1996*.

**CPI adjusted levy** for a Category 1 area or a Category 2 area for a particular financial year means the amount determined in accordance with section 12.

**exempt**, in relation to a parking space, means exempt by or under section 7, and in relation to a person, means exempt by the regulations.

**financial year** means a year commencing on 1 July.

**levy** means the levy imposed under this Act in respect of a parking space.

**parking space** means:

- (a) a space set aside for the parking of a motor vehicle (whether or not the space is used for the parking of a motor vehicle), and
- (b) a space used for the parking of a motor vehicle, and
- (c) any other space prescribed by the regulations to be a parking space for the purposes of this definition,

but does not include a space which is part of the carriageway of any street, road or lane open to or used by the public.

**parking space to which this Act applies** means a parking space referred to in section 7 (1).

**premises** includes vacant land.

**premises to which this Act applies** means premises referred to in section 6.

- (2) In this Act, a reference to an owner, lessee or sublessee is, if there are more than one of them in relation to any premises, a reference to them jointly and severally. However, anything which this Act requires to be done by an owner, lessee or sublessee is sufficiently done if done by any one of them.
- (3) In this Act:
  - (a) a reference to a function includes a reference to a power, authority and duty, and
  - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (4) A reference in this Act to a financial year of a specified year is a reference to the financial year that commences on 1 July in the specified year. For example, a reference to the 2000 financial year is a reference to the financial year that commences on 1 July 2000.

- (5) The regulations may (for the purposes of the definitions of **Category 1 area** and **Category 2 area** in subsection (1)) prescribe an area as a Category 1 area or Category 2 area by reference to local government areas (or parts of local government areas), boundaries or plans or otherwise.
- (6) Notes included in this Act do not form part of this Act.

## 5 Act binds the Crown

- (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

## 6 Premises to which this Act applies

This Act applies to premises within a Category 1 area or Category 2 area.

### 6A Special provisions when Act extended to new area

- (1) This section applies to premises that become premises to which this Act applies as a result of the area in which they are located being prescribed by the regulations as a Category 1 area or Category 2 area.
- (2) When premises first become premises to which this Act applies after the commencement of this section, section 9 applies in respect of those premises as if the reference in section 9 (1) to “the previous financial year” were a reference to “the financial year commencing on that 1 July”. This subsection applies only for the purposes of the first levy payable under this Act in respect of those premises.
- (3) The following provisions apply in respect of the levy (**the first levy**) for a parking space on premises that becomes payable on 1 September immediately following the date on which the premises first become premises to which this Act applies:
  - (a) section 13 does not apply to that first levy,
  - (b) if the parking space does not, or will not, exist as a parking space to which this Act applies for a part or all of the current financial year (the year commencing on 1 July immediately preceding that 1 September), the owner by whom the levy is payable may apply to the Chief Commissioner for an appropriate levy credit,
  - (c) the appropriate levy credit is that proportion of the levy that corresponds to the portion of that current financial year for which the space does not, or will not, so exist (but no credit is to be allowed if the proportion is less than one twelfth),
  - (d) once satisfied that grounds for a credit have been established, the Chief Commissioner must set the amount of the credit off against the sum of levies payable by the same owner under this Act, or refund part or all of the credit if the

sum has been paid,

- (e) however, if during that current financial year a parking space does exist as a parking space to which this Act applies for that part of the year in respect of which a credit was allowed under this section, the Chief Commissioner may demand that an appropriate amount of levy be paid in respect of that part of the year, and that amount is due and recoverable as a levy payable under this Act.

## **7 Parking spaces to which this Act applies**

- (1) This Act applies to a parking space on premises to which this Act applies, other than an exempt parking space.
- (2) A parking space on premises within a Category 1 area or Category 2 area is an exempt parking space if it is set aside or used exclusively for one or more of the following purposes:
  - (a) the parking of a bicycle or motor bicycle,
  - (b) the parking of a motor vehicle by a person resident on the same premises as those on which the space is located or on adjoining premises,
  - (c) the parking of a motor vehicle for the purpose of loading or unloading goods or passengers to or from the vehicle,
  - (d) the parking of a motor vehicle by a person who is providing services on a casual basis on the premises where the space is located,
  - (e) the parking of a motor vehicle while a disabled person's parking authority is displayed on the vehicle in the manner specified in the authority, the conditions specified in the authority are being observed and the authority is in force,
  - (f) the parking without charge of a motor vehicle on premises owned or occupied by the council of the local government area in which the premises are situated by a person other than an officer or employee of the council,
  - (g) the parking without charge of a motor vehicle on premises owned or occupied by a religious body or religious organisation, being 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 a religious body within a denomination in respect of which such a proclamation is in force,
  - (h) the parking without charge of a motor vehicle on premises owned or occupied by a public charity or public benevolent institution.
- (2A) A parking space on premises within a Category 2 area is an exempt parking space if the Chief Commissioner is satisfied that the parking space is set aside for or used exclusively for the parking of a motor vehicle:

- (a) by customers of a retail shop, or
  - (b) by guests or customers of a hotel or motel, or
  - (c) by members and guests of members of a registered club, or
  - (d) by customers of a restaurant, or
  - (e) by patients of a medical centre, or
  - (f) by customers of a car sales establishment, car servicing or repair centre, or car wash, or
  - (g) by clients and guests of clients of a funeral parlour, or
  - (h) that is displayed or stored on the premises for the purpose of its being offered for sale or hire on the premises.
- (3) In addition, the regulations may provide for other circumstances in which a parking space is an exempt parking space.
- (4) For the purposes of this Act, it does not matter if the same parking space is not set aside or used for one or more of the purposes referred to in subsection (2) or (2A) or in circumstances which may be prescribed under subsection (3) as long as for each such parking space there is, at all times, at least one parking space set aside or used for such a purpose or in those circumstances on the same premises.
- (5) For the purposes of this Act, it does not matter if a parking space is not marked.
- (6) In this section:
- disabled person's parking authority*** means an authority issued by the Roads and Traffic Authority to a disabled person or to a person or organisation in respect of a vehicle used for the conveyance of disabled persons.

## **8 Determination by the regulations of matters relating to parking spaces**

- (1) The regulations may make provision for or with respect to the basis and means of assessing:
- (a) the number of parking spaces there are on any premises, and
  - (b) the length of time in any financial year for which a parking space is, or is not, a parking space to which this Act applies,
- for the purposes of this Act.
- (2) The regulations may specify circumstances in which a parking space is taken, or is not taken, for the purposes of this Act, to be set aside or used for the parking of a motor vehicle.



## **Part 2 Imposition of levy**

### **9 Levy**

- (1) The owner, as at 1 July in a financial year, of premises to which this Act applies must, unless exempt, pay a levy to the Chief Commissioner on or before 1 September in that financial year for each parking space on the premises if the space existed as a parking space to which this Act applies at any time during the previous financial year.
- (2) The first levy payable under this Act becomes payable on 1 September 1992.

### **10 Recovery of levy**

- (1), (2) (Repealed)
- (3) The Chief Commissioner may retain from any money paid under this Act to the Chief Commissioner such commission (if any) as may be agreed on by the Chief Commissioner and the Minister.

### **11 Amount of levy**

- (1) The amount of the levy that is payable on 1 September in each of the financial years from 1992 to 1996 (both years inclusive) is \$200 for each parking space for which the levy is payable.
- (2) The amount of the levy that is payable on 1 September in each of the financial years from 1997 to 1999 (both years inclusive) is \$400 for each parking space for which the levy is payable.
- (3) The amount of the levy that is payable on 1 September in each of the financial years from 2000 to 2002 (both years inclusive) is:
  - (a) \$800 for each parking space within a Category 1 area for which the levy is payable, or
  - (b) \$400 for each parking space within a Category 2 area for which the levy is payable.
- (4) The amount of the levy that is payable on 1 September in the 2003 financial year is:
  - (a) \$840 for each parking space within a Category 1 area for which the levy is payable, or
  - (b) \$420 for each parking space within a Category 2 area for which the levy is payable.

#### **Note—**

The levy payable for the 2003 financial year (\$840 for a Category 1 area and \$420 for a Category 2 area) was calculated by adjusting the previous levy (\$800 and \$400 respectively) in accordance with the

cumulative percentage increase in the consumer price index for the period from 30 September 2000 to 31 March 2003, with a discount for the impact of the Goods and Services Tax.

- (5) The amount of the levy that is payable on 1 September in the 2004 financial year and on 1 September in each subsequent financial year is:
- (a) for each parking space within a Category 1 area—the CPI adjusted levy for a Category 1 area for the particular financial year concerned, and
  - (b) for each parking space within a Category 2 area—the CPI adjusted levy for a Category 2 area for the particular financial year concerned.

## 12 CPI adjusted levy

- (1) The CPI adjusted levy for a Category 1 area or a Category 2 area for a particular financial year is to be determined in accordance with the following formula:

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

where:

**C** is the CPI adjusted levy being determined, rounded down to the nearest 2 decimal points.

**L** is:

- (a) in the case of a determination of the CPI adjusted levy for a Category 1 area for a particular financial year—the amount of the levy payable on 1 September in the previous financial year in respect of a parking space within a Category 1 area, or
- (b) in the case of a determination of the CPI adjusted levy for a Category 2 area for a particular financial year—the amount of the levy payable on 1 September in the previous financial year in respect of a parking space within a Category 2 area.

**A** is the sum of the consumer price index numbers for the 4 consecutive quarters of June, September, December and March with the September quarter being the September quarter of the financial year previous to the financial year for which the CPI adjusted levy is being determined.

**Note—**

For example, in the case of a determination of the CPI adjusted levy for the 2004 financial year, “A” is the sum of the consumer price index numbers for June 2003, September 2003, December 2003 and March 2004.

**B** is the sum of the consumer price index numbers for the 4 consecutive quarters of June, September, December and March with the September quarter being the September quarter of the financial year that is 2 years previous to the financial year for which the CPI adjusted levy is being determined.

**Note—**

For example, in the case of a determination of the CPI adjusted levy for the 2004 financial year, "B" is the sum of the consumer price index numbers for June 2002, September 2002, December 2002 and March 2003.

(2) The CPI adjusted levy determined under subsection (1) is to be rounded up or down to the nearest \$10 (and, if the amount by which the levy is to be rounded is \$5, is to be rounded up).

(3) In this section:

**consumer price index** means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician (or such other economic index as the regulations prescribe).

### **12A Notice of CPI adjusted levy**

(1) By the beginning of each financial year, the Minister is to cause a notice to be published in the Gazette specifying the amount of the levy payable on 1 September in that financial year:

(a) for each parking space within a Category 1 area for which the levy is payable, and

(b) for each parking space within a Category 2 area for which the levy is payable,

as determined in accordance with section 12.

(2) A failure to publish such a notice for a financial year does not have any effect on the operation of section 12 in respect of the levy payable in that financial year.

### **13 Parking spaces that exist for part of year**

The amount of levy payable on 1 September in a financial year after 1992 for each parking space to which this Act applies which existed for only part of the previous financial year is that proportion of the amount of levy determined in respect of the financial year which corresponds to the portion of the previous financial year for which the space existed as a parking space to which this Act applies.

### **14 Statutory trust**

All levies paid to the Chief Commissioner under this Act are subject to a statutory trust for carrying out the construction and maintenance of car and bicycle parking facilities (and other infrastructure) which facilitate access to public transport services to and from the City of Sydney and any other area prescribed as a Category 1 area or Category 2 area, for the provision of public transport services, and for other purposes referred to in section 18 (3), and must be used accordingly.

### **15 Returns**

The owner, as at 1 July in a financial year, of premises on which there is or was during the

previous financial year a parking space to which this Act applies must, unless exempt, furnish a return to the Chief Commissioner on or before 1 September in that financial year.

## **16 Variations, refunds, extensions etc**

- (1) The Chief Commissioner may, on application in writing by an owner of premises to which this Act applies, partly or fully credit the amount of a levy payable, or partly or fully refund the amount of levy paid, by the owner, if the amount of the levy assessed or paid is too high or in any case where the levy imposed under this Act would, in the Chief Commissioner's opinion, cause undue hardship.
- (2), (3) (Repealed)

## **17 Obligations of persons in public sector positions**

- (1) This section applies to a person in a public sector position who has an entitlement to use one or more parking spaces to which this Act applies.
- (2) This section does not apply to such a person if:
  - (a) the person is the holder of a disabled person's parking authority, or
  - (b) the person is exempt.
- (3) A person to whom this section applies is to make arrangements for payment of the whole or a proportion of the levy payable in respect of one of those spaces commensurate with the use the person makes of the space or spaces in conjunction with travel by the person to or from the person's place of work for duties during the person's normal working hours at that place.
- (4) A person to whom this section applies is to make the arrangements with the person prescribed for the purposes of this section by the regulations, and payment is to be made in accordance with those arrangements, by the day which falls one month after the entitlement arises or by 1 September in the relevant financial year, whichever day is later.
- (5) The payment is to be made out of remuneration paid or payable to the person to whom this section applies.
- (6) This section applies despite any contract to the contrary.
- (7) In this section:

**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).

**public sector position** means:

- (a) a position in the Chief Executive Service or Senior Executive Service under the *Public Sector Management Act 1988* or in the Police Service Senior Executive Service under the *Police Service Act 1990*, or
- (b) a position in the Public Service, in the Police Service, in the Education Teaching Service, in the service of a public authority or in the service of Parliament, or
- (c) 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 Department Head, or
- (d) the office of a member of the Legislative Council or of the Legislative Assembly, or
- (e) the office of a Minister of the Crown.

### **Part 3 Public Transport Facilities Fund**

#### **18 Public Transport Facilities Fund**

- (1) There is established in the Special Deposits Account an account to be called the Public Transport Facilities Fund.
- (2) There is payable into the Fund:
  - (a) all money appropriated to the Fund from the Consolidated Fund, and
  - (b) any interest received in respect of the investment of money belonging to the Fund, and
  - (c) any money directed to be paid into the Fund by or under this or any other Act.
- (3) There is payable from the Fund:
  - (a) money for the construction and maintenance of car and bicycle parking facilities, and other infrastructure, which facilitate access to public transport services to and from the City of Sydney and any other area prescribed under section 6, and
  - (b) refunds payable under this Act, and
  - (c) any money directed to be paid from the Fund by or under this or any other Act.
- (4) Money may be paid under this section from the Fund in accordance with a direction of the Minister.

### **Part 4 Miscellaneous**

#### **19-25 (Repealed)**

#### **26 Contributions if several owners etc**

If one or more of a number of owners, lessees or sublessees pay any sum required to be

paid under this Act, those so paying may recover, as a debt, contributions from the other owners, lessees or sublessees (as the case requires) in equal proportions according to the number of owners, lessees or sublessees concerned.

## **27 Delegation**

- (1) The Minister may delegate any of the Minister's functions under this Act other than this power of delegation.
- (2) A delegate may subdelegate to any person any function delegated under this section if the delegate is authorised in writing to do so by the Minister.

## **28-30 (Repealed)**

## **31 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following matters:
  - (a) returns to be furnished by owners of premises to which this Act applies,
  - (b) the calculation, assessment, collection and recovery of the levy,
  - (c) the exemption of parking spaces and persons from the levy and of persons from any requirement to furnish returns,
  - (d) variations, credits, set-offs and refunds of the levy,
  - (e) extensions of time for payment of the levy,
  - (f) agreements for the payment of the levy in instalments,
  - (g) the administration of the Fund,
  - (h) procedures for hearing and determining appeals under this Act.
- (3) The regulations may make provision of a savings or transitional nature consequent on the making of any regulation under this Act by virtue of which a change is made in the application of this Act to premises or parking spaces. Such regulations may be expressed to take effect on and from any date during the financial year during which they are published in the Gazette or a later date.
- (4) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

## **32 Transitional provisions**

Schedule 1 has effect.

## **Schedule 1 Savings, transitional and other provisions**

(Section 32)

### **Part 1 Regulations**

#### **1A Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*State Revenue Legislation Amendment Act 2003*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **Part 2 Provisions consequent on enactment of this Act**

#### **1 Credit on levy payable in first year of operation of Act**

- (1) If a parking space in respect of which a levy is payable on or before 1 September 1992 does not, or will not, exist as a parking space to which this Act applies for a part or all of the financial year commencing on 1 July 1992, the owner by whom the levy is payable may apply to the Chief Commissioner for an appropriate levy credit.
- (2) The appropriate levy credit is that proportion of the levy which corresponds to the portion of the financial year for which the space does not, or will not, so exist. However, no credit is to be allowed if the proportion is less than one twelfth.
- (3) Once satisfied that grounds for a credit have been established, the Chief Commissioner must set the amount of the credit off against the sum of levies payable by the same owner under this Act, or refund part or all of the credit if the sum has been paid.

- (4) However, if during the financial year commencing on 1 July 1992 a parking space does exist as a parking space to which this Act applies for that part of the year in respect of which a credit was allowed under this clause, the Commissioner may demand that an appropriate amount of levy be paid in respect of that part of the year.
- (5) Such amount is due and recoverable in accordance with section 10.

## **2 Obligation of lessee**

- (1) A lessee of premises to which this Act applies must, unless exempt, pay to the lessor the whole, or such part as is determined in accordance with subclause (2), of the levy required to be paid by the lessor for a financial year in respect of each parking space to which this Act applies occupied under the lease by the lessee at any time during the financial year.
- (2) If a parking space referred to in subclause (1) is, for only part of the financial year:
  - (a) occupied under the lease by the lessee, or
  - (b) a parking space to which this Act applies,the amount to be paid by the lessee is to be reduced proportionately.
- (3) The lessee must pay the amount by the day which falls one month after the lease commences or by 1 September in the relevant financial year, whichever day is later.
- (4) If a lessee does not pay an amount as required by this clause, the lessor may recover the amount as a debt, together with interest accruing on the amount from the day on which the amount was payable by the lessee, at a rate prescribed by the regulations.
- (5) This clause has effect despite the terms of the lease, but only until the earlier of the following:
  - (a) the parties to the lease expressly agree that this clause is not to apply in respect of the lease, or
  - (b) the rental payable under the lease is or could be reviewed, or the lease could be determined, by either party.
- (6) This clause applies as between a lessee and a sublessee in the same way as it applies between a lessor and a lessee.

## **Part 3 Provisions consequent on enactment of [Parking Space Levy Amendment Act 2000](#)**

### **3 Operation of 2000 amendments**

- (1) In this clause:



**the amending Act** means the *Parking Space Levy Amendment Act 2000*.

- (2) Subsections (1) and (2) of section 11 (as substituted by the amending Act) are taken to have been in force on and from the commencement of this Act.
- (3) Accordingly, the imposition, payment and recovery of a levy under this Act is taken to have been validly done to the extent that it would have been validly done had those subsections (as so substituted) been in force on and from that commencement.
- (4) Section 6A (Special provisions when Act extended to new area) extends to the areas prescribed by the regulations as Category 2 areas on the commencement of that section but does not apply to the area prescribed by the regulations as a Category 1 area on that commencement.
- (5) Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to the amendments made by the amending Act to the *Parking Space Levy Regulation 1997*.

## **Part 4 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2003**

### **4 Increase in levy for 2003 financial year**

The imposition, payment and recovery of a levy under this Act on or after 1 July 2003 and before the date of assent to the *State Revenue Legislation Amendment Act 2003* is taken to have been validly done to the extent that it would have been validly done had that Act been in force at the time that it was done.

### **5 Notice of levy amount**

Section 12A, as inserted by the *State Revenue Legislation Amendment Act 2003*, does not apply in respect of the 2003 financial year.