

# Parking Space Levy Act 2009 No 5

[2009-5]



New South Wales

## Status Information

### Currency of version

Historical version for 19 November 2009 to 29 November 2016 (accessed 29 November 2024 at 1:19)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Does not include amendments by**
  - [Strata Schemes Management Act 2015 No 50](#) (not commenced — to commence on 30.11.2016)
  - [Strata Schemes Development Act 2015 No 51](#) (not commenced — to commence on 30.11.2016)

### Authorisation

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# Parking Space Levy Act 2009 No 5



New South Wales

An Act to impose a levy on parking spaces in certain areas; to provide for the application of the revenue; and to repeal the *Parking Space Levy Act 1992* and the regulations under that Act.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Parking Space Levy Act 2009*.

### 2 Commencement

This Act commences on a day to be appointed by proclamation.

### 3 Object

The object of this Act is to discourage car use in leviable districts by imposing a levy on parking spaces (including parking spaces in parking stations), and by using the revenue to encourage the use of public transport (in particular, public transport to and from, or within, those districts).

### 4 Definitions

(1) In this Act:

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

**exercise** a function includes perform a duty.

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

**function** includes a power, authority or duty.

**leviable district** means a district established by the regulations as a leviable district.

**leviable premises**—see section 7.

**levy** means the parking space levy imposed by this Act on leviable premises.

**owner**, in relation to leviable premises, includes:

- (a) any person who jointly or severally, whether at law or in equity, is entitled to the premises for any estate of freehold in possession, and
- (b) any person who is entitled to receive, or is in receipt of, or if the premises were let to a tenant would be entitled to receive, the rents and profits of the premises, whether as beneficial owner, lessor, trustee, mortgagee in possession, or otherwise, and
- (c) any person to whom a lease or licence to occupy the premises has been granted, and
- (d) in the case of premises comprising a public road or public reserve (within the meaning of the [Local Government Act 1993](#)), the council of the local government area within which the public road or public reserve is situated, and
- (e) in the case of premises that are the subject of a strata scheme under the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#), the owners corporation for that scheme constituted under section 11 of the [Strata Schemes Management Act 1996](#), and
- (f) in the case of premises that are a community, precinct or neighbourhood scheme within the meaning of the [Community Land Development Act 1989](#), the association for the scheme constituted under section 25 of that Act.

**parking space** means a space that is situated on premises in a leviable district, being a space:

- (a) that is used, or set aside, for the parking of motor vehicles, or
- (b) that is declared by the regulations to be a parking space for the purposes of this Act.

**premises** includes any land and any building.

- (2) The regulations may establish a leviable district by reference to local government areas (or parts of local government areas), boundaries, plans or otherwise.
- (3) Notes included in this Act do not form part of this Act.

## **5 Act to be read with [Taxation Administration Act 1996](#)**

This Act is to be read together with the [Taxation Administration Act 1996](#).

### **Note—**

The [Taxation Administration Act 1996](#) makes provision for the administration and enforcement of taxation laws. This Act is a taxation law for the purposes of that Act.

## **6 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.

## **Part 2 Parking space levies**

### **7 Leviable premises**

- (1) For the purposes of this Act, premises are leviable premises in any financial year if, at any time during the previous financial year:
  - (a) the premises were located in a leviable district, and
  - (b) one or more parking spaces were situated on the premises.
- (2) Despite subsection (1), premises are not leviable premises if they are declared by the regulations not to be leviable premises.

### **8 Imposition of parking space levy**

- (1) A parking space levy is imposed on 1 July each year on all leviable premises.
- (2) The amount of the levy for any leviable premises is the amount calculated in respect of the premises in accordance with the regulations.
- (3) A person who, as at 1 July in any year, is the owner of leviable premises is liable for payment of the levy for the premises.
- (4) If the premises are owned by 2 or more persons, the owners are jointly and severally liable for payment of the levy.
- (5) The levy is to be paid to the Chief Commissioner.
- (6) The Chief Commissioner may retain from the levies paid under this section such commission (if any) as may be agreed on between the Chief Commissioner and the Minister.
- (7) A tax default does not occur for the purposes of the [Taxation Administration Act 1996](#) if the levy is paid by 1 September in the year in which liability for payment of the levy arises.

**Note—**

If a tax default occurs, interest and penalty tax may be charged under the [Taxation Administration Act 1996](#).

### **9 Lodging of returns**

- (1) A person who, as at 1 July in any year, is the owner of leviable premises must, on or

before 1 September in that year, furnish a return to the Chief Commissioner in relation to the parking spaces situated on those premises at any time during the previous financial year.

**Note—**

See section 34 of the *Taxation Administration Act 1996* which requires a return to be in a form approved by the Chief Commissioner, and section 36 of that Act which allows the Chief Commissioner to extend the time for lodgment.

- (2) If the premises are owned by 2 or more persons, the requirements of this section are satisfied if a return is furnished by any one of them.
- (3) A person's obligation to furnish a return under this section continues despite any failure by the person to furnish such a return in due time.

## **10 Statutory trust**

All parking space levies paid to the Chief Commissioner under this Act are subject to a statutory trust for their use for the purposes referred to in section 11 (3), and must be used accordingly.

## **11 Public Transport Fund**

- (1) There is established in the Special Deposits Account an account to be called the Public Transport Fund.
- (2) There is payable into the Public Transport Fund:
  - (a) all money appropriated to the Public Transport 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 out of the Public Transport Fund:
  - (a) money to finance public transport services, and
  - (b) money to finance projects that facilitate access by public transport to and from, or within, leviable districts, including projects for the construction, maintenance and ongoing management of parking facilities, and other such infrastructure, and
  - (c) money to finance initiatives for the communication of information to commuters, including initiatives that make use of new technologies, and
  - (d) money to pay amounts that become payable under Parts 4 and 10 of the *Taxation Administration Act 1996* in relation to parking space levies paid to the Chief Commissioner, and

(e) money that is directed to be paid from the Fund by or under this or any other Act.

(4) Money is to be paid out of the Public Transport Fund in accordance with directions of the Minister.

## **Part 3 Miscellaneous**

### **12 Chief Commissioner's guidelines**

(1) The Chief Commissioner may, by order published in the Gazette, establish guidelines, not inconsistent with this Act or the regulations, as to:

(a) what does, and what does not, constitute a parking space in any particular circumstances, and

(b) whether, in particular circumstances, a parking space is, or is not, to be exempted from the calculation of the levy in respect of any leviable premises.

(2) Such an order may only be made with the approval of the Minister.

(3) In any proceedings in which a matter referred to in subsection (1) (a) or (b) is called into question, a court must have regard to any such guideline for the purpose of determining the question.

### **13 Delegation**

(1) The Minister may delegate to any person 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.

### **14 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) the manner in which the number of parking spaces on any leviable premises is to be calculated,

(b) the amount of the levy payable in respect of leviable premises, and the manner in which it is to be calculated,

(c) the circumstances in which parking spaces may be exempted from the calculation of the levy,



- (d) the administration of the Public Transport Fund,
  - (e) the establishment of arrangements for contributions towards payment of the levy by specified classes of persons who use parking spaces in leviable premises.
- (3) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

## **15 Parking Space Levy Regulation 2009**

- (1) Schedule 2 is taken to be and has effect as a regulation made under this Act.
- (2) Part 2 of the *Subordinate Legislation Act 1989* does not apply to the regulation set out in Schedule 2 (but applies to any amendment or repeal of the regulation).
- (3) For the purposes of section 10 of the *Subordinate Legislation Act 1989*, the regulation set out in Schedule 2 is taken to have been published on the day on which this section commences.
- (4) Sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to the regulation set out in Schedule 2 (but apply to any amendment or repeal of the regulation).
- (5) Schedule 2 is repealed on the day following the day on which this section commences.

### **Note—**

The continued effect of the regulation set out in Schedule 2 is unaffected by the repeal of Schedule 2. See section 30 of the *Interpretation Act 1987*.

## **16, 17 (Repealed)**

## **18 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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

### **Part 1 General**

#### **1 Regulations**

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

this Act

- (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 on the NSW legislation website, 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**

### **2 Definition**

In this Part:

***the former Act*** means the *Parking Space Levy Act 1992*, as in force immediately before the commencement of this Act.

### **3 Returns under the former Act**

Section 9 of this Act applies to any return that was required to be furnished under section 15 of the former Act but that had not been furnished before the commencement of this Act.

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

Any arrangements that, immediately before the commencement of this Act, were in force under section 17 of the former Act are taken to have been made for the purposes of the regulations under this Act.

### **5 Public Transport Facilities Fund**

Money held in the Public Transport Facilities Fund established under the former Act is to be paid into the Public Transport Fund established under this Act.

### **6 Operation of *Taxation Administration Act 1996***

Anything done under the *Taxation Administration Act 1996* for the purposes of, or in connection with, the former Act is taken to have been done for the purposes of, or in connection with, this Act.

## **Part 3 Provisions consequent on enactment of [State Revenue Legislation Further Amendment Act \(No 2\) 2009](#)**

### **7 Application of amendments**

The amendment to this Act made by the [State Revenue Legislation Further Amendment Act \(No 2\) 2009](#) applies to the parking space levy imposed on 1 July 2009 and in subsequent years.

### **Schedule 2 (Repealed)**