



New South Wales

Parking Space Levy Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill 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 those districts). The Bill repeals the *Parking Space Levy Act 1992* (the *current Act*).

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 sets out the object of the proposed Act in the terms referred to above.

Clause 4 defines certain words and expressions for the purposes of the proposed Act, including in particular *leviable district*, *levy* and *parking space*.

* Amended in committee—see table at end of volume.

Clause 5 provides for the proposed Act to be read together with the *Taxation Administration Act 1996*. That Act makes provision with respect to the administration and enforcement of taxation laws. The current Act is a taxation law. Consequential amendments to the *Taxation Administration Act 1996* will ensure that the proposed Act is also a taxation law.

Clause 6 provides that the proposed Act will bind the Crown.

Part 2 Parking space levies

Clause 7 provides that premises are leviable premises if, during the previous financial year, they have been situated in a leviable district and contained one or more parking spaces. The clause further provides that the regulations may declare premises not to be leviable premises.

Clause 8 provides that on 1 July each year a levy is imposed on all leviable premises. The amount of the levy is to be calculated in accordance with the regulations, and is payable by the person who, as at that 1 July, was the owner of the premises.

Clause 9 provides that the person who was, as at 1 July, the owner of leviable premises must, on or before 1 September, furnish a return to the Chief Commissioner of State Revenue in relation to the parking spaces situated on those premises.

Clause 10 provides that all parking space levies that are paid to the Chief Commissioner of State Revenue are subject to a statutory trust for their use for the purposes for which money in the proposed Public Transport Fund may be used pursuant to proposed section 11 (3). This clause is similar to a provision of the current Act.

Clause 11 provides for the establishment in the Special Deposits Account of a Public Transport Fund out of which may be paid, in accordance with a direction of the Minister:

- (a) money to finance public transport services, and
- (b) money to finance projects that facilitate access to public transport services, 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 of State Revenue, and
- (e) money that is directed to be paid from the Fund by or under this or any other Act.

This clause is similar to a provision of the current Act, but for the addition of the purposes referred to in paragraphs (a) and (c) above.

Part 3 Miscellaneous

Clause 12 enables the Chief Commissioner of State Revenue to establish guidelines 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.

Courts will be required to have regard to the guidelines when considering any such matter that is called into question in any proceedings.

Clause 13 provides for the delegation, and subdelegation, of the Minister's functions under the proposed Act.

Clause 14 enables regulations to be made for the purposes of the proposed Act, including regulations 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.

Clause 15 gives effect to the proposed *Parking Space Levy Regulation 2009* that is contained in proposed Schedule 2.

Clause 16 repeals the *Parking Space Levy Act 1992* and the *Parking Space Levy Regulation 1997*.

Clause 17 makes a consequential amendment of the *Taxation Administration Act 1996*.

Clause 18 requires a review of the proposed Act to be undertaken 5 years after the date of assent to the proposed Act.

Schedule 1 Savings, transitional and other provisions

The proposed Schedule contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act, including a provision that enables the regulations to include further provisions of that nature.

Schedule 2 Parking Space Levy Regulation 2009

Clause 1 sets out the name of the proposed Regulation.

Clause 2 defines certain words and expressions for the purposes of the proposed Regulation, including in particular *parking area*, *regular parking space* and *stacked parking space*.

Clause 3 provides that each district referred to in Schedule 1 to the proposed Regulation is established as a leviable district for the purposes of the proposed Act. The proposed districts are identical to the districts established under the current Act.

Clause 4 provides that the carriageways of any street, road or lane are not leviable premises for the purposes of the proposed Act. This clause replicates a provision of the current Act.

Clause 5 provides that a stacked parking space is declared to be a parking space for the purposes of the proposed Act.

Clause 6 provides a method for calculating the number of parking spaces on leviable premises. The method is substantially the same as the method used under the current Act, except that the space allowed for each parking space in an area in which parking spaces are not specifically designated is 18 square metres, rather than the 25.2 square metres allowed under the current Act.

Clause 7 establishes the circumstances in which a parking space is exempt from payment of a levy. Exempt parking spaces include those situated in the various shopping centres described in Schedule 2 to the proposed Regulation. The exemptions under this clause are substantially the same as the exemptions under the current Act.

Clause 8 fixes the base rate of the levy for each financial year in relation to premises in a Category 1 or Category 2 area. The base rate for the financial year commencing 1 July 2009 is the same as that under the current Act, as is the formula for making CPI adjustments for future years.

Clause 9 establishes the method by which the levy is to be calculated in relation to any premises. The method is substantially the same as the method used under the current Act.

Clause 10 requires notice of the base rate of the levy payable in any financial year to be published in the Gazette on or before 1 July in that year. This clause replicates a provision of the current Act.

Clause 11 requires a person in a government service position to contribute towards the levy payable in respect of any parking space to which he or she has an entitlement in his or her capacity as a government employee. Arrangements for this purpose are to be entered into with the relevant person identified in Schedule 3 to the proposed Regulation. This clause replicates a provision of the current Act.