

First print



New South Wales

Traffic Amendment (Pay Parking Schemes) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Traffic Act 1909* to allow declared public authorities to establish and operate pay parking schemes on public streets under their control. Currently, only local councils have authority to operate such parking schemes. The Bill also replaces the existing expression "pay parking space" with the expression "pay parking area" to more accurately reflect the concept being described.

Outline of provisions

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 (except section 4) on a day or days to be appointed by proclamation. Section 4 is to commence on the commencement of the proposed Act or the commencement of the *Traffic Legislation Amendment Act 1997*, whichever occurs later.

Clause 3 is a formal provision giving effect to the amendments to the *Traffic Act 1909* ("the Principal Act") set out in Schedule 1.

Clause 4 provides for all references to "public street" and "public streets" in Part 3B of the Principal Act (as amended by the proposed Act) to become references to "road or road related area" and "roads or road related areas" respectively. This reflects similar amendments made to the Principal Act by the *Traffic Legislation Amendment Act 1997*, as yet uncommenced.

Schedule 1 Amendments

Schedule 1 [1] amends the heading to Part 3B of the Principal Act to more accurately reflect the provisions of the Part.

Schedule 1 [2] inserts definitions of *area of operations*, *Authority guidelines*, *declared public authority*, *metered parking scheme*, *pay parking agency*, *pay parking area*, *pay parking device* and *pay parking scheme* into section 10Q of the Principal Act.

Schedule 1 [3] extends the definition of *parking meter* in section 10Q of the Principal Act to include meters installed by declared public authorities.

Schedule 1 [4] replaces the definition of *pay parking space* in section 10Q of the Principal Act. The new definition is comparable to the existing definition of *metered space*.

Schedule 1 [5] and **[7]** amend the headings to Division 2 and Division 3 of Part 3B of the Principal Act, respectively, to more accurately reflect the provisions of those Divisions.

Schedule 1 [6] replaces section 10R of the Principal Act to extend to declared public authorities the power to establish and operate metered parking schemes in public streets under their control. Currently, only councils have this power.

Schedule 1 [8] replaces section 10T of the Principal Act to extend to declared public authorities the power to establish and operate pay parking schemes (other than metered parking schemes) in public streets under their control. Currently, only councils have this power. Schedule 1 [8] also replaces the concept of a pay parking space with the concept of a pay parking area.

Schedule 1 [9] and [14] replace section 10U and amend section 10VC of the Principal Act, respectively, as a consequence of the replacement of the concept of a pay parking space with the concept of a pay parking area in section 10T.

Schedule 1 [10] omits sections 10V and 10VA from Division 3 of Part 3B of the Principal Act and **Schedule 1 [11]** re-inserts those sections into Division 4 of Part 3B.

Schedule 1 [11] also inserts section 10VAA into that Division.

Proposed section 10V substantially re-enacts and amends section 10V of the Principal Act as a consequence of the amendments to sections 10R and 10T extending to declared public authorities the power to establish and operate pay parking schemes, and the replacement of the concept of a pay parking space with the concept of a pay parking area in section 10T. It has been re-enacted in Division 4 to ensure that councils and declared public authorities comply with guidelines made by the Authority in relation to metered parking. The proposed section also substantially re-enacts sections 10R (4), 10T (6) and 10U (3) of the Principal Act to continue the Authority's power to issue guidelines for the purposes of Part 3B.

Proposed section 10VA substantially re-enacts and extends section 10VA of the Principal Act to preserve any other powers of a declared public authority to provide for parking on certain land. Currently, section 10VA preserves only the powers of a council to provide for parking in a public reserve controlled by the council. The proposed section also substantially re-enacts and extends sections 10R (2) and 10T (4) of the Principal Act to permit declared public authorities to establish and operate pay parking schemes on land they do not own, but only with the consent of the owner of that land. Currently, only councils have this power. The proposed section also clarifies the nature of such a consent.

Proposed section 10VAA substantially re-enacts section 10T (3) of the Principal Act and extends it to provide that declared public authorities may also establish and operate two or more pay parking schemes over the same part of a public street. In such a situation, only one parking fee is payable.

Schedule 1 [12] and [13] amend section 10VC of the Principal Act as a consequence of the amendments to sections 10R and 10T extending to declared public authorities the power to establish and operate pay parking schemes.

Schedule 1 [15] and [16] make consequential amendments to section 10VC of the Principal Act to reflect the use of the expression *area of operations* and the fact that only councils may establish common pay parking schemes (other than metered parking schemes) under the Principal Act.

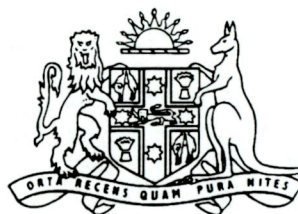
Schedule 1 [17] replaces section 10VD of the Principal Act to extend the current dispute resolution mechanism to disputes between two or more pay parking agencies.

Schedule 1 [18] repeals section 10VE (c) of the Principal Act as this regulation-making power is implicit in proposed section 10T.

Schedule 1 [19] extends section 10VE (d) of the Principal Act to allow regulations to be made regulating the stopping or parking of vehicles in pay parking areas and the methods for payment for such parking.

Schedule 1 [20] and [21] amend Schedule 1 of the Principal Act to include specific savings and transitional provisions consequent on the enactment of the proposed Act and to allow savings and transitional regulations to be made.

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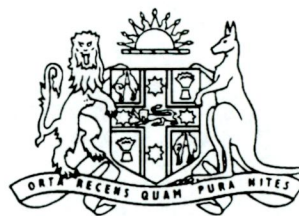


New South Wales

Traffic Amendment (Pay Parking Schemes) Bill 1998

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New South Wales

Traffic Amendment (Pay Parking Schemes) Bill 1998

No , 1998

A Bill for

An Act to amend the *Traffic Act 1909* to enable declared public authorities to establish and operate pay parking schemes on public streets under their control; to make consequential amendments to that Act; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Traffic Amendment (Pay Parking Schemes) Act 1998*.

2 Commencement

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(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Section 4 commences:

(a) on the commencement of this Act, or

(b) if the *Traffic Legislation Amendment Act 1997* has not commenced when this Act commences, on the commencement of that Act. 10

3 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedule 1.

4 Further amendment of Traffic Act 1909 No 5

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The *Traffic Act 1909* is further amended by omitting from Part 3B, as amended by this Act, the words "public street" and "public streets" wherever occurring and by inserting instead the words "road or road related area" and "roads or road related areas", respectively. 20

Schedule 1 Amendments

(Section 3)

[1] Part 3B, heading

Omit the heading.

Insert instead "**Part 3B Pay parking schemes**".

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[2] Section 10Q Definitions

Insert in alphabetical order:

area of operations means:

(a) in the case of a council, the council's local government area, and

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(b) in the case of a declared public authority, the area declared by the regulations to be the public authority's area of operations.

Authority guidelines means guidelines in force under section 10V (1).

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declared public authority means any person or body that is declared by the regulations to be a public authority for the purposes of this Part.

metered parking scheme means a parking scheme established under section 10R (1).

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pay parking agency means a council or a declared public authority.

pay parking area means the whole or any part of one or more public streets:

(a) that is set aside as a pay parking area, as referred to in section 10T (2) (a), and

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(b) that is designated as a pay parking area in the manner prescribed by the regulations.

pay parking device means a device referred to in section 10T (2) (d).

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pay parking scheme means a parking scheme established under section 10R (1) or 10T (1).

[3] Section 10Q, definition of "parking meter"

Omit "council". Insert instead "pay parking agency".

[4] Section 10Q, definition of "pay parking space"

Omit the definition. Insert instead:

pay parking space means any part of a public street within a pay parking area: 5

- (a) that is identified in the manner prescribed by the regulations as a space within a pay parking area, and
- (b) that has been marked, by painted lines or by any other method prescribed by the regulations, for the purpose of indicating where a vehicle may park on payment of a fee. 10

[5] Division 2, heading

Omit the heading. 15
Insert instead "**Division 2 Metered parking schemes**".

[6] Section 10R

Omit the section. Insert instead:

10R Metered parking schemes

- (1) A pay parking agency may establish and operate metered parking schemes for any public street or public streets within its area of operations. 20
- (2) For the purposes of any such scheme, a pay parking agency:
 - (a) may, in accordance with Authority guidelines, provide metered spaces in any public street within its area of operations, and 25
 - (b) may fix the fees for the parking of a vehicle in any such space, and
 - (c) may install parking meters for use in connection with the payment of such fees. 30

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- (3) In the case of a council, the fees for parking in metered spaces are to be fixed by resolution of the council.
- (4) In the case of a declared public authority, the fees for parking in metered spaces are to be fixed in accordance with pricing principles set out in Authority guidelines. 5
- (5) Parking meters may be installed despite the provisions of any other Act or law.
- (6) A parking meter may only be installed at the space to which it applies or, if one parking meter applies to more than one space, in the immediate vicinity of those spaces. 10

[7] Division 3, heading

Omit the heading.

Insert instead "**Division 3 Other pay parking schemes**".

[8] Section 10T

Omit the section. Insert instead: 15

10T Other pay parking schemes

- (1) A pay parking agency may, in accordance with Authority guidelines, establish and operate pay parking schemes (other than metered parking schemes) for any public street or public streets within its area of operations. 20
- (2) For the purposes of any such scheme, a pay parking agency:
- (a) may, in accordance with Authority guidelines, set aside as a pay parking area the whole or any part of one or more public streets within its area of operations, and 25
- (b) may fix the fees for the parking of vehicles in any such area, and
- (c) may, in accordance with the regulations, adopt such means of and schemes for payment of such fees as are approved from time to time by the Authority, and 30
- (d) may install devices for use in connection with the payment of such fees.

- (3) In the case of a council, the fees for parking in a pay parking area are to be fixed by resolution of the council.
- (4) In the case of a declared public authority, the fees for parking in a pay parking area are to be fixed in accordance with pricing principles set out in Authority guidelines. 5
- (5) Pay parking devices may be installed despite the provisions of any other Act or law.

[9] Section 10U

Omit the section. Insert instead: 10

10U Councils' common pay parking schemes

- (1) A council may, in accordance with Authority guidelines, agree with one or more other councils concerning the provision of pay parking (other than metered parking) on a common payment basis. 15
- (2) The councils must, by resolution, fix fees on a common basis that are to be charged for parking in pay parking areas covered by the agreement.

[10] Sections 10V and 10VA

Omit the sections. 20

[11] Sections 10V, 10VA and 10VAA

Insert before section 10VB:

10V Authority guidelines and approval

- (1) The Authority may, by order in writing, establish guidelines for the purposes of this Part. 25
- (2) A pay parking agency is not entitled to provide or to charge for parking in a metered space or a pay parking area if it fails to comply with an Authority guideline or an approval given under section 10T (2) (c).

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- (3) For the purposes of this section, a pay parking agency is taken to have complied with an Authority guideline or approval until the contrary is proved.
 - (4) The regulations may provide for defences to offences relating to the establishment and operation of pay parking schemes in relation to which a pay parking agency has failed to comply with an Authority guideline or an approval given under section 10T (2) (c). 5
 - (5) In the case of any inconsistency between an Authority guideline and any provision of a regulation, the provisions of the regulation shall prevail to the extent of the inconsistency. 10

10VA Other powers to provide pay parking

- (1) Nothing in this Part affects any other power of a pay parking agency to provide for parking on land within its area of operations. 15
- (2) A pay parking agency may exercise any power under this Part in relation to land that it does not own, but only with the consent of the owner of the land.
- (3) Such consent may be given subject to terms and conditions, including terms in relation to the duration and revocation of that consent. 20
- (4) Subject to any such terms, such consent may be revoked only after the giving of reasonable notice.

10VAA Overlapping schemes 25

- (1) Nothing in this Part prevents a pay parking agency from establishing and operating a pay parking scheme on any part of a public street on which it is operating any other pay parking scheme.
- (2) The pay parking agency may not recover the fee fixed in respect of any vehicle parking in a metered space or a pay parking area if any other applicable parking fee has been paid. 30

[12] Section 10VC Application of money from parking

Omit section 10VC (1). Insert instead:

- (1) The costs of administering a pay parking scheme operated by a pay parking agency under this Part are to be borne by the pay parking agency. 5

[13] Section 10VC

Omit "council" wherever occurring.
Insert instead "pay parking agency".

[14] Section 10VC (2) (c)

Omit "or pay parking spaces". 10
Insert instead ", pay parking spaces or pay parking areas".

[15] Section 10VC (2) (c)

Insert "operations of" after "area of".

[16] Section 10VC (3)

Insert "(in the case of a council)" after "subject to". 15

[17] Section 10VD

Omit the section. Insert instead:

10VD Disputes

- (1) Any dispute arising under this Part between a pay parking agency and the Authority is to be resolved by consultation between the Minister responsible for the pay parking agency and the Minister administering this Act or, if agreement cannot be reached, by the Premier. 20
- (2) Any dispute arising under this Part between two or more pay parking agencies is to be resolved: 25
- (a) if the same Minister is responsible for each of those agencies, by that Minister, and

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- (b) in any other case, by consultation between the various Ministers responsible for those agencies or, if agreement cannot be reached, by the Premier.
- (3) In this section, a reference to the Minister responsible for a pay parking agency is a reference to:
- (a) in the case of a council, the Minister administering the *Local Government Act 1993*, and
- (b) in the case of a declared public authority that is constituted by or under an Act, the Minister administering that Act, and
- (c) in any other case, the Minister declared by the regulations to be the Minister responsible for the declared public authority.
- [18] Section 10VE Regulations relating to parking**
- Omit section 10VE (c).
- [19] Section 10VE (d)**
- Insert "or pay parking area" after "space".
- [20] Schedule 1 Savings, transitional and other provisions**
- Insert at the end of clause 1 (1):
- Traffic Amendment (Pay Parking Schemes) Act 1998*
- [21] Schedule 1, Part 5**
- Insert at the end of the Schedule:
- Part 5 Provisions consequent on the enactment of the Traffic Amendment (Pay Parking Schemes) Act 1998**
- 17 Definition**
- In this Part:
- amending Act* means the *Traffic Amendment (Pay Parking Schemes) Act 1998*.

18 Parking spaces

Any pay parking space provided under section 10T before the commencement of the amending Act is taken to be a pay parking area set aside under section 10T as substituted by the amending Act.

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19 Approval for operation of pay parking scheme

Any approval given by the owner of land under section 10R (2) or 10T (4) before the commencement of the amending Act is taken to be a consent under section 10VA as inserted by the amending Act.

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20 Guidelines issued by the Authority

Any guidelines issued by the Authority under section 10R (4), 10T (6) or 10U (3) before the commencement of the amending Act are taken to be **Authority guidelines** as defined in section 10Q as amended by the amending Act.

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21 Pay parking devices

Any device installed under section 10T (5) before the commencement of the amending Act is taken to be a **pay parking device** as defined in section 10Q as amended by the amending Act.

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