

FIRST PRINT

**TRAFFIC (PARKING REGULATION) AMENDMENT
BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Local Government Bill 1992.

The object of this Bill is to amend the Traffic Act 1909 so as to transfer to that Act certain provisions of the Local Government Act 1919 and the State Roads Act 1986 that relate to parking meters and the removal of broken down and unattended vehicles.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to a Schedule of amendments to the Traffic Act 1909.

Clause 4 is a formal provision that gives effect to a Schedule of consequential amendments to other Acts.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

Schedule 1 (5) inserts a new Part 3B (containing proposed sections 10Q–10W) into the Act.

Proposed section 10Q applies Part 3B to all councils and their respective areas.

Proposed section 10R preserves the effect of the other provisions of the Act, and of the provisions of other Acts, with respect to the control of traffic.

Proposed section 10S empowers a council to provide metered zones, to install parking meters and to recover parking fees for vehicles and horses standing or parking in metered zones.

Proposed section 10T makes it an offence to damage or fraudulently operate a parking meter.

Traffic (Parking Regulation) Amendment 1992

Proposed section 10U empowers a police officer, in an emergency, to direct the removal of a vehicle or horse from a metered zone or, if necessary, to cause the vehicle or horse to be removed.

Proposed section 10V requires councils to bear the cost of installing and maintaining parking meters and allows councils to collect the revenue received from parking meters. That revenue is to be used for the purposes of administering the parking controls and for providing parking stations.

Proposed section 10W enables regulations to be made with respect to the installation and use of parking meters.

Schedule 1 (1), (3), (4) and (6) amend the Act as a consequence of the new Part 3B.

Schedule 1 (7) inserts new sections 25 and 26 into the Act.

Proposed section 25 re-enacts the provisions of section 267A of the Local Government Act 1919 and section 63 of the State Roads Act 1986 with respect to the removal from public roads of broken down vehicles and spilt loads.

Proposed section 26 re-enacts the provisions of section 65 of the State Roads Act 1986 with respect to the removal from clearways and transit lanes of unlawfully parked cars.

Schedule 1 (8) adds a Schedule of savings and transitional provisions to the Act. The Schedule contains provisions saving existing metered zones, existing parking meter fees and the existing Ordinance No. 34A (under the Local Government Act 1919) which relates to parking meters. The Schedule also provides for the making of further savings and transitional provisions by means of the regulations. Schedule 1 (2) inserts a new section 2A that gives effect to the Schedule.

SCHEDULE 2—AMENDMENT OF OTHER ACTS

This Schedule amends the following Acts as a consequence of the amendments to the Traffic Act 1909:

Darling Harbour Authority Act 1984 No. 103
Land and Environment Court Act 1979 No. 204
Local Government Act 1919 No. 41
Sydney Cove Redevelopment Authority Act 1968 No. 56

FIRST PRINT

**TRAFFIC (PARKING REGULATION) AMENDMENT
BILL 1992**

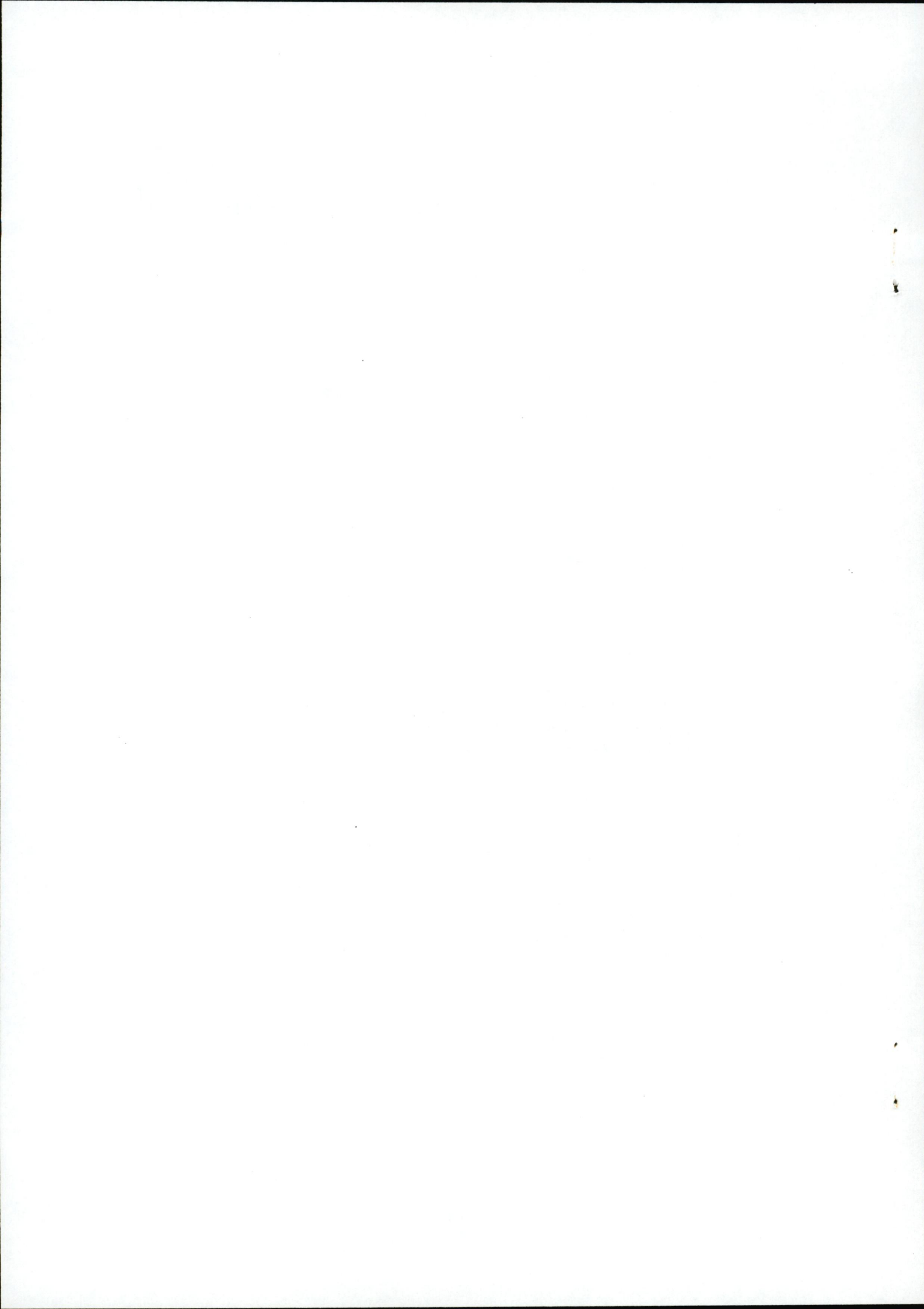
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Traffic Act 1909 No. 5
4. Amendment of other Acts

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909
SCHEDULE 2—AMENDMENT OF OTHER ACTS



**TRAFFIC (PARKING REGULATION) AMENDMENT
BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Traffic Act 1909 for the purpose of regulating the parking of vehicles on public streets and public reserves; and for related purposes.

Traffic (Parking Regulation) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Traffic (Parking Regulation) Amendment Act 1992.

5 Commencement

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

Amendment of Traffic Act 1909 No. 5

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

10 Amendment of other Acts

4. Each Act specified in Schedule 2 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

(Sec. 3)

15 (1) Section 2 (Definitions):

(a) In section 2 (1), insert in alphabetical order:

“**Council**” means the council of a city, municipality or shire.

20 “Metered space” means a section or part of a metered zone:

- (a) in which a parking meter is installed; and
- (b) which has been marked by painted lines or by any other prescribed method for the purpose of indicating where a vehicle or horse may stand or wait on payment of a fee.

25 “Metered zone” means any public street or public reserve or any part of the street or reserve:

- (a) in which parking meters are installed; and
- (b) in or on which the standing or waiting of vehicles or horses is permitted on payment of a fee.

30 “Parking meter” means a device:

- (a) that is installed in a metered space; and

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

- (b) that is designed to indicate or is capable of indicating whether the fee fixed in respect of any vehicle or horse standing or waiting in that metered space has been paid, 5
and includes the stand on which a parking meter is erected.
- “Parking station”** means any land or building used for the purpose of accommodating vehicles on payment of a fee, but does not include a metered zone or metered space. 10
- “Roads authority”** means:
- (a) in relation to a public road (within the meaning of the Roads Act 1992) within a local government area—the council of that area; and 15
- (b) in relation to a classified road (within the meaning of the Roads Act 1992)—the Authority.
- (b) In section 2 (1), from the definition of “Driver”, omit “a cycle”, insert instead “a motor cycle and, except in Part 3B, includes any person riding a cycle that is not propelled by a motor”. 20
- (c) From section 2 (1), omit the definition of “Vehicle”, insert instead:
- “Vehicle”** means any description of vehicle that moves on wheels or caterpillar tracks, but does not include a vehicle that moves on a railway or tramway. 25
- (2) Section 2A:
- After section 2, insert:
- Savings, transitional and other provisions** 30
- 2A. Schedule 1 has effect.
- (3) Section 2E (Definitions):
- In section 2E (1), from paragraph (c) of the definition of “traffic control facility”, omit “section 270N (1) (c) of the Local Government Act 1919”, insert instead “section 10V”. 35

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(4) Section 2I (**Miscellaneous provisions**):

(a) Omit section 2I (1), insert instead:

5 (1) This Part prevails over the provisions of any other Act or statutory rule that are inconsistent with this Part.

(b) From section 2I (2), omit "Local Government Act 1919", insert instead "Local Government Act 1992".

(5) Part 3B:

10 After Part 3A, insert:

**PART 3B—CONTROL OF VEHICLE PARKING ON
PUBLIC STREETS**

Application of Part

15 10Q. This Part applies to all councils and to their respective areas.

Savings

20 10R. (1) Nothing in this Part affects the operation of the provisions of any other Part of this Act, or of any other Act, by or under which functions in relation to the control of traffic are conferred or imposed on the Commissioner of Police or the Authority.

25 (2) Without limiting subsection (1), if any such provisions or any statutory rule made under those provisions, or any action taken or direction given under the functions conferred or imposed by those provisions or any such statutory rule, are inconsistent with any matter or thing done or purporting to be done under this Division, those provisions are, or that statutory rule, action or direction is, to prevail.

Parking meters

30 10S. A council may do all or any of the following:

(a) provide, with the approval in writing of the Authority, metered zones in any public street or public reserve under the control of the council and metered spaces in any such metered zone;

35 (b) with that approval, regulate any such metered zones and spaces;

(c) install a parking meter in any metered space;

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

- (d) demand and recover in respect of any vehicle or horse standing or waiting in any metered space such fees as may be fixed by resolution of the council (subject to any maximum prescribed by the regulations). 5
- Damage to parking meters**
- 10T. Any person who:
- (a) damages or does or causes to be done any act which interferes or is likely to interfere with the proper working of a parking meter; or 10
- (b) fraudulently operates a parking meter,
- is guilty of an offence.
- Maximum penalty: 5 penalty units.
- Powers of police in emergency** 15
- 10U. (1) A police officer may, during a temporary obstruction or danger to traffic or in an emergency:
- (a) direct a person not to cause or permit any vehicle or horse to stand or wait in a metered zone or metered space; or 20
- (b) direct the owner or driver of a vehicle or horse standing or waiting in a metered zone or metered space to remove the vehicle or horse from the zone or space; or
- (c) if no person appears to be in charge of a vehicle or horse standing or waiting in a metered zone or metered space—remove the vehicle or horse from the zone or space. 25
- (2) Any person who, without reasonable excuse, fails to comply with the direction of a police officer under this section is guilty of an offence. 30
- Maximum penalty: 5 penalty units.
- Application of money from parking meters**
- 10V. (1) The costs of administering this Part in relation to any area or areas are to be borne by the council or councils concerned. 35

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(2) Those costs include:

5

(a) the cost of providing, controlling, maintaining and regulating metered zones and metered spaces and the parking meters installed in those zones and spaces; and

10

(b) the cost of providing and maintaining signs or other devices and of marking lines to indicate or otherwise indicating the position of metered zones and metered spaces or to indicate the places in any public street within the area of the council or councils concerned where any vehicle (other than a public vehicle) may stand, wait, park or stop.

15

(3) All fees that a council collects in respect of the operation of parking meters belong to the council. Those fees may be applied only for meeting the costs of administration referred to in subsection (1).

20

(4) Any surplus arising from the operation of parking meters must be applied towards the cost of providing, controlling or managing parking stations.

25

(5) The council or councils concerned must pay to the Authority such amount as agreed on by the Authority and the council or councils concerned in respect of costs referred to in subsection (2) (b).

(6) Any dispute arising under this section between the council or councils concerned and the Authority is to be resolved by consultation between the Minister for Local Government and the Minister administering this Act.

30

Regulations relating to parking

10W. Regulations may be made for carrying this Part into effect and, in particular, for and with respect to regulating the installation and use of parking meters and the standing, waiting, stopping or parking of any vehicle or horse in a metered zone or metered space.

35

(6) Section 18B (**Penalty notices for certain offences**):

(a) Omit section 18B (1) (aa), (b) and (f).

(b) Omit section 18B (1) (h), insert instead:

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

- (h) has committed any prescribed offence under the Roads Act 1992 or the regulations under that Act or, by virtue of section 220 of that Act, is guilty of any such offence; 5
- (7) Sections 25 and 26:
- After section 24, insert:
- Removal of dangers and obstructions to traffic**
25. (1) If a danger or obstruction to traffic on a road is caused by: 10
- (a) a vehicle that has been involved in an accident or has broken down; or
- (b) any thing that has emanated from a vehicle,
- an authorised officer may remove the vehicle or thing and take such other steps as may be necessary to protect the public and facilitate the free flow of traffic. 15
- (2) The appropriate roads authority may, by proceedings brought in a court of competent jurisdiction, recover as a debt from the person who had the custody of the vehicle at the time of the accident, breakdown, fall, escape or removal the amount of the expenses that that authority has incurred in exercising the function conferred by this section. 20
- (3) In this section, “authorised officer” means:
- (a) an employee in the service of the appropriate roads authority authorised to exercise the powers conferred by this section; or 25
- (b) a police officer.
- Removal of unattended motor vehicles from clearways, transit lanes and other places** 30
26. (1) An authorised officer may cause an unattended motor vehicle unlawfully standing on a clearway, transit lane or other prescribed place to be removed in accordance with this section if, in the opinion of the officer, the vehicle is causing, or unless removed is likely to cause, danger to the public or undue traffic congestion. 35
- (2) A motor vehicle is removed in accordance with this section if:

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

5 (a) it is removed to a place in the vicinity which, in the opinion of the authorised officer concerned, the vehicle may lawfully stand without being likely to cause danger to the public or undue traffic congestion; and

10 (b) as soon as practicable after removal, the Authority or the authorised officer concerned reports the removal and the location of the motor vehicle to the police officer in charge of a police station in the vicinity, together with a request that the owner or other person entitled to possession of the motor vehicle be notified of the place to which it has been removed.

15 (3) If a motor vehicle is removed in accordance with this section, the owner of the vehicle and the person who left it unattended are jointly and severally liable to pay to the Authority the cost (including the cost of any insurance) incurred in removing the vehicle in accordance with this section.

20 (4) The Authority may, by proceedings brought in a court of competent jurisdiction, recover as a debt any amount for which a person is liable to pay to it under subsection (3).

(5) In this section, “authorised officer” means:

- 25 (a) an employee in the service of the Authority authorised to exercise the powers conferred by this section; or
(b) a police officer.

(8) Schedule 1:

At the end of the Act, insert:

30 **SCHEDULE 1—SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 2A)

Part 1—Preliminary

Regulations

35 1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Traffic (Parking Regulation) Amendment Act 1992;

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on and from the date of commencement of this clause or a later day. 5

(3) To the extent to which a provision referred to in subclause (1) 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 10

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication. 15

Part 2—Provisions consequent on the enactment of the Traffic (Parking Regulation) Amendment Act 1992

Definition 20

2. In this Part:

“amending Act” means the Traffic (Parking Regulation) Amendment Act 1992.

Parking meters etc.

3. Any metered space provided, or any parking meter installed, in a public road or public reserve under a provision of Division 13A of Part 9 of the Local Government Act 1919 is, if not removed before the repeal of that Division, taken to be a metered space provided, or a parking meter installed, under the corresponding provision of Part 3B of this Act, as amended by the amending Act. 25 30

Fees and charges

4. Any resolution made by a council under section 270H of the Local Government Act 1919 providing for the fixing of fees or charges is, if in force immediately before the repeal of that section, taken to be a resolution made by the council providing for the fixing of fees under section 10S of this Act, as amended by the amending Act. 35

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909—
continued

Ordinances

5 5. (1) Ordinance No. 34A under the Local Government Act 1919 is taken to be a regulation under this Act, as amended by the amending Act, and may be amended and repealed accordingly.

10 (2) A reference in that ordinance to a provision of the Local Government Act 1919 is taken to extend to the corresponding provision (if any) of this Act.

Application of section 25

15 6. Section 25, as inserted by the amending Act, applies to matters arising before the commencement of that section in the same way as it applies to matters arising after that commencement.

Application of section 26

20 7. Section 26, as inserted by the amending Act, applies to matters arising before the commencement of that section in the same way as it applies to matters arising after that commencement.

SCHEDULE 2—AMENDMENT OF OTHER ACTS

(Sec. 4)

Darling Harbour Authority Act 1984 No. 103

25 Section 59 (**Application of certain legislation within Development Area**):

 From section 59 (1) (b) and (3) (b), omit “sections 270L and 277 (3) (b) and” wherever occurring.

Land and Environment Court Act 1979 No. 204

30 Section 18 (**Class 2: local government and miscellaneous appeals**):

 From section 18 (a), omit “270JB,”.

Local Government Act 1919 No. 41

 Division 13A of Part 9.

 Omit the Division.

Traffic (Parking Regulation) Amendment 1992

SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

Sydney Cove Redevelopment Authority Act 1968 No. 56

Section 19 (General powers of Authority):

From section 19 (1) (f), omit “Division 13A of Part 9 of the Local Government Act 1919”, insert instead “Part 3B of the Traffic Act 1909”.

5

