

Perth Parking Management Bill 1998

CONTENTS

Part 1 — Preliminary

1 .	Short title	2
2 .	Commencement	2
3 .	Application	2
4 .	Interpretation	2
5 .	The Perth Parking Policy	4
6 .	The Perth parking management area	4
7 .	Restricted parking in the Perth parking management area	5

Part 2 — Parking bay licences

8 .	Applications for a parking bay licence	6
9 .	Issue of parking bay licences	6
10 .	Conditions on parking bay licences	7
11 .	Parking bay licence fees	8
12 .	Duration of parking bay licences	8
13 .	Suspension or cancellation of parking bay licences	9
14 .	Change of ownership of licensed land or building	9
15 .	Variation of parking bay licences	10
16 .	Renewal of parking bay licences	11

Contents

17 .	Appeals against CEO's decisions	11
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Part 3 — Offences and infringement notices

18 .	Offences	13
19 .	Infringement notices	13

Part 4 — Administration and general matters

20 .	Appointment of inspectors	16
21 .	Powers of inspectors	16
22 .	Obstruction of inspectors	17
23 .	The Perth Parking Licensing Account	18
24 .	Delegation of CEO's functions	19
25 .	Requirement to pay fees or provide information	19
26 .	Regulations	20

Western Australia

LEGISLATIVE ASSEMBLY

Perth Parking Management Bill 1998

A Bill for

**An Act to provide for the management of parking in certain parts of
the Perth metropolitan area and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Perth Parking Management Act 1998*.

5 **2. Commencement**

This Act comes into operation on such day as is, or such days as are respectively, fixed by proclamation.

3. Application

This Act binds the Crown.

10 **4. Interpretation**

In this Act, unless the contrary intention appears —

“**CEO**” means the chief executive officer as defined in the *Interpretation Act 1984*;

15 “**common property**”, in relation to a strata scheme or survey-strata scheme, has the same definition as in the *Strata Titles Act 1985*;

“**infringement notice**” means a notice issued under section 19(1);

“**inspector**” means an inspector appointed under section 20;

20 “**licensee**” means the holder of a parking bay licence;

“**lot**”, in relation to a strata scheme or survey-strata scheme, has the same definition as in the *Strata Titles Act 1985*;

“**motor vehicle**” means a self-propelled vehicle (except an aircraft or a vessel) that is not operated on rails;

“owner”, in relation to land or a building, means —

- (a) if the land or building is part or all of the common property or of a lot of a strata scheme or survey-strata scheme — the strata company for the scheme;
- 5 (b) if the land or building is under the control of an authority of the government of the Commonwealth, a State or a Territory, or of a local government — the authority; or
- 10 (c) in any other case — the person who owns the land or building;

“parking bay licence” means a licence issued under section 9;

“Perth Parking Licensing Account” means the account established under section 23;

15 **“Perth parking management area”** means the area prescribed under section 6;

“Perth Parking Policy” means the Perth Parking Policy referred to in section 5, as amended from time to time;

20 **“power assisted pedal cycle”** means a vehicle designed to be propelled by a mechanism operated solely by human power, to which is attached one or more auxiliary propulsion motors having a combined maximum output not exceeding 200 watts;

25 **“strata company”**, in relation to a strata scheme or survey-strata scheme, means the body corporate constituted for the scheme under section 32 of the *Strata Titles Act 1985*;

“strata scheme” has the same definition as in the *Strata Titles Act 1985*;

30 **“survey-strata scheme”** has the same definition as in the *Strata Titles Act 1985*;

s. 5

“vehicle” means —

- (a) a motor vehicle (except a motorized wheel chair, a power assisted pedal cycle or a toy);
- 5 (b) a caravan, trailer or semi-trailer (whether or not the caravan, trailer or semi-trailer is connected to a motor vehicle);
- (c) a vehicle drawn by an animal, or an animal used for drawing a vehicle.

5. The Perth Parking Policy

10 For the purposes of this Act, the Perth Parking Policy is the policy of that name developed by the CEO in cooperation with the City of Perth, and published in the *Gazette* with the approval of the Minister to whom the administration of the *Transport Co-ordination Act 1966* is for the time being committed by the
15 Governor, after consultation with —

- (a) the Minister to whom the administration of the *Town Planning and Development Act 1928* is for the time being committed by the Governor; and
- 20 (b) the Minister to whom the administration of the *Environmental Protection Act 1986* is for the time being committed by the Governor.

6. The Perth parking management area

An area within the Perth metropolitan area is to be prescribed as the Perth parking management area for the purposes of this Act.

7. Restricted parking in the Perth parking management area

The owner of land or a building in the Perth parking management area must not permit a vehicle to be parked on the land or in or on the building unless —

- 5 (a) the land or building is used solely for private residential purposes;
- (b) the owner has a parking bay licence that permits the vehicle to be parked there; or
- 10 (c) the vehicle is a prescribed vehicle or is parked in prescribed circumstances.

Penalty: \$5 000.

Part 2 — Parking bay licences

8. Applications for a parking bay licence

- 5 (1) The owner of land or a building in the Perth parking management area may apply to the CEO for a parking bay licence.
- (2) An application must —
- (a) be in a form approved by the CEO;
- (b) be accompanied by any prescribed documents or prescribed information; and
- 10 (c) be accompanied by the prescribed application fee (if any).

9. Issue of parking bay licences

- 15 (1) The CEO may issue a licence to an applicant to permit one or more vehicles to be parked on the land or in or on the building specified in the application —
- (a) if parking vehicles in accordance with the proposed licence would be consistent with the Perth Parking Policy; or
- 20 (b) even if parking vehicles in accordance with the proposed licence would not be consistent with the Perth Parking Policy — if the CEO thinks, after taking into account the matters referred to in subsection (3), that issuing the licence is reasonable in the circumstances.
- 25 (2) If the applicant is required to obtain any approvals under the *Town Planning and Development Act 1928* in relation to parking, or making parking facilities available, on the land or in or on the building, the CEO must not issue the licence unless the applicant has each required approval.

- (3) The following matters are to be taken into account for the purposes of subsection (1)(b) —
- (a) the impact that parking vehicles in accordance with the proposed licence would be likely to have on the following —
 - (i) the amenity of the environment in the Perth parking management area;
 - (ii) pedestrian traffic in the vicinity of the land or building;
 - (iii) vehicle traffic flow and road network efficiency in the vicinity of the land or building;
 - (b) the availability of public transport in the vicinity of the land or building;
 - (c) any other relevant matters.

10. Conditions on parking bay licences

- (1) When issuing or varying a parking bay licence, the CEO may impose on the licence any conditions necessary to ensure that the likely effect on the Perth parking management area of parking vehicles in accordance with the licence is or will be, as far as practicable, consistent with the Perth Parking Policy.
- (2) Without limiting subsection (1), the conditions may include conditions relating to any or all of the following —
- (a) the number of parking bays to be made available on the land or in or on the building;
 - (b) the kinds of vehicles that may be parked in the parking bays;
 - (c) the times during which, and the periods for which, vehicles may be parked in the parking bays;
 - (d) the purpose for which vehicles may be parked in the parking bays.

s. 11

- (3) The conditions must be set out in the licence.

11. Parking bay licence fees

- 5 (1) The CEO must not issue, renew, vary or transfer a parking bay licence unless the prescribed licence fee (if any), or an instalment of it, as the case requires, has been paid.
- (2) The CEO may permit the licence fee to be paid in instalments.
- (3) The regulations may prescribe different licence fees for different classes of licence, and may provide that a licence fee is not payable for a licence in a prescribed class.
- 10 (4) Without limiting subregulation (3), the regulations may provide for licence fees to be calculated by reference to any or all of the following —
- (a) the number of parking bays authorized by the licence;
- (b) the kinds of vehicles permitted to be parked in the parking bays;
- 15 (c) the periods for which vehicles may be parked in the parking bays;
- (d) the times at which vehicles may be parked in the parking bays.
- 20 (5) This subsection imposes the prescribed licence fees except to the extent that the fees are taxes imposed by the *Perth Parking Management (Taxing) Act 1998*.

12. Duration of parking bay licences

25 Unless sooner cancelled under section 13(2) or 14(7), a parking bay licence remains in force —

- (a) if an expiry date is set out in the licence — up to and including the expiry date; or

- (b) if no expiry date is set out in the licence — until 30 June in the financial year during which the licence is in force.

13. Suspension or cancellation of parking bay licences

- 5 (1) The CEO may suspend or cancel a parking bay licence if there are reasonable grounds for believing that —
 - (a) information given by the licensee in, or in connection with, the application for the licence, or an application for the variation, renewal or transfer of the licence, is false or misleading in a material particular; or
 - 10 (b) the licensee has contravened or is contravening a condition of the licence.
- (2) The CEO may suspend or cancel a parking bay licence if the licence fee, or an installment of the licence fee, as the case requires, is not paid on or before the due date.
- 15 (3) A suspension or cancellation takes effect when notice of it is served on the licensee with a statement of the reasons for it.

14. Change of ownership of licensed land or building

- 20 (1) If there is a change in the ownership of land or a building for which a parking bay licence is in force, the new owner must, within the period of 28 days after the change occurs, give the CEO notice of the change.
Penalty: \$1 000.
- (2) When giving notice, the new owner must —
 - 25 (a) apply to the CEO to transfer the licence to the new owner; or
 - (b) surrender the licence to the CEO.
- (3) An application for the transfer of the licence must —
 - (a) be in a form approved by the CEO; and

s. 15

- (b) be accompanied by any prescribed documents or prescribed information.
- 5 (4) On receiving an application, the CEO must transfer the licence unless grounds for suspending or cancelling it under section 13 exist or would exist if it were transferred.
- (5) During the 14 day period after the change of ownership occurs, the new owner may permit vehicles to be parked in accordance with the licence, and this Act applies to the new owner during the period as if the new owner were the licensee.
- 10 (6) If the new owner applies for the transfer of the licence within the 14 day period, the new owner may continue to permit vehicles to be parked in accordance with the licence after the end of the period, and this Act applies to the new owner as if the new owner were the licensee, until —

 - 15 (a) the CEO transfers the licence to the new owner; or
 - (b) if the CEO decides not to transfer the licence — notice of the decision is served on the new owner.
- (7) If the CEO decides not to transfer the licence, it is taken to have been cancelled when notice of the decision is served on the new owner with a statement of the reasons for the decision.

15. Variation of parking bay licences

- (1) A licensee may apply to the CEO for the parking bay licence to be varied.
- 25 (2) The application must —

 - (a) be in a form approved by the CEO; and
 - (b) be accompanied by any prescribed documents or prescribed information.

- (3) The CEO may vary the licence if he or she would be able to issue a licence under section 9 in the same terms as the proposed varied licence.

16. Renewal of parking bay licences

- 5 (1) A licensee may apply to the CEO for the renewal of the parking bay licence.
- (2) The application must —
- 10 (a) be in a form approved by the CEO;
- (b) be accompanied by any prescribed documents or prescribed information; and
- (c) be accompanied by the prescribed application fee (if any).
- (3) The CEO must renew the licence unless grounds for suspending or cancelling it under section 13 exist, or would exist if it were renewed.
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17. Appeals against CEO's decisions

- (1) An applicant for a parking bay licence, or for the variation, renewal or transfer of a parking bay licence, may apply to the Minister for a review of a decision of the CEO —
- 20 (a) not to issue, vary, renew or transfer the licence; or
- (b) to impose a condition on the licence.
- (2) A licensee may apply to the Minister for a review of a decision of the CEO to suspend or cancel the licence.
- (3) When the Minister considers an application, the Minister may —
- 25 (a) confirm the CEO's decision; or

s. 17

- (b) substitute for the CEO's decision any other decision that the CEO could have made.
- (4) The CEO must give effect to the Minister's decision.

Part 3 — Offences and infringement notices

18. Offences

(1) A licensee must comply with the parking bay licence.
Penalty: \$5 000.

5 (2) A licensee must not advertise or otherwise indicate that parking
for a vehicle is available on the land or in or on the building for
which the parking bay licence is in force unless the licence
permits a vehicle to be parked there as advertised or otherwise
indicated.

10 Penalty: \$5 000.

(3) An owner of land or a building in the Perth parking
management area who does not hold a parking bay licence for
the land or building must not advertise or otherwise indicate that
parking for a vehicle is available on the land or in or on the
15 building.

Penalty: \$5 000.

(4) This section has effect in relation to parking a vehicle whether
or not a fee or reward is paid or payable for parking it.

(5) The daily penalty for an offence against this section is \$500.

20 **19. Infringement notices**

(1) If an inspector has reason to believe that a person has committed
a prescribed offence against this Act, the inspector may, within
21 days after the alleged offence is believed to have been
committed, give an infringement notice to the alleged offender.

25 (2) An infringement notice must —
 (a) be in the prescribed form;
 (b) contain a description of the alleged offence;

s. 19

- 5 (c) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to the CEO within 28 days after the date of the notice; and
- (d) inform the alleged offender how and where the money may be paid.
- 10 (3) The amount to be specified as being the modified penalty for the alleged offence is the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- 15 (4) The CEO may, in a particular case, extend the period of 28 days within which the modified penalty may be paid, and the extension may be allowed whether or not the period of 28 days has elapsed.
- 20 (5) If the modified penalty specified in an infringement notice is paid within 28 days or any further time allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.
- 25 (6) The CEO may withdraw an infringement notice by giving the alleged offender, within 28 days after the date of the infringement notice, a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (7) An infringement notice may be withdrawn whether or not the modified penalty specified in the notice has been paid.
- 30 (8) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

- (9) The payment of an amount as a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

Part 4 — Administration and general matters

20. Appointment of inspectors

- (1) The CEO may appoint inspectors for the purposes of this Act.
- 5 (2) The CEO must issue a certificate of appointment to each inspector.

21. Powers of inspectors

- (1) An inspector may, at any reasonable time, do any or all of the following to the extent necessary to determine whether or not an offence against this Act has been or is being committed —
- 10 (a) enter and inspect any land or building in the Perth parking management area on or in which a vehicle is or may be parked;
- (b) inspect a vehicle parked on the land or in or on the building;
- 15 (c) require a person in charge or apparently in charge of the land, vehicle or building to do any or all of the following —
- (i) to tell the inspector the person's name and residential address;
- 20 (ii) to give any information within the person's knowledge that is relevant to determining whether an offence has been or is being committed against this Act or the regulations;
- 25 (iii) to produce any documents in the person's possession or under the person's control that are relevant to determining whether an offence has been or is being committed against this Act or the regulations;

- 5 (d) inspect and take extracts from or copies of any document produced by the person (including electronic copies or hard copies of documents kept electronically);
- (e) temporarily remove any original document produced by the person (except a document kept electronically) from the land or premises for the purpose of examining or copying it.
- (2) An inspector is not authorized to enter any dwelling on the land or in or on the building.
- 10 (3) An inspector is not authorized to do anything under this Act in relation to land, a building or a vehicle unless the inspector produces his or her certificate of appointment if requested to do so by the person in charge, or apparently in charge, of the land, building or vehicle.

15 **22. Obstruction of inspectors**

- (1) A person must not obstruct an inspector in the performance of his or her functions or the exercise of his or her powers under this Act.
 Penalty: \$2 000.
- 20 (2) A person obstructs an inspector if the person —
- (a) obstructs, hinders or threatens the inspector in the performance of his or her functions or the exercise of his or her powers under this Act;
- 25 (b) refuses or fails to give information when required to do so under section 21;
- (c) refuses or fails to produce a document when required to do so under section 21;
- (d) gives information to the inspector that is false or misleading in a material particular; or

s. 23

- (e) without lawful excuse, prevents or attempts to prevent another person from giving information or producing a document when the other person is required to do so under section 21.

5 **23. The Perth Parking Licensing Account**

(1) There is to be established, as part of the Transport Co-ordination Fund established under section 62 of the *Transport Co-ordination Act 1966*, an account to be known as the Perth Parking Licensing Account.

10 (2) The following money is to be credited to the Perth Parking Licensing Account —

- (a) money paid by way of application fees under this Act;
- (b) money paid by way of licence fees under this Act or the *Perth Parking Management (Taxing) Act 1998*;
- (c) money paid by way of modified penalties under an infringement notice;
- (d) money appropriated by the Parliament for the purposes of this Act.

15 (3) There shall be charged to the Perth Parking Licensing Account, with the approval of the Minister, after consultation with the City of Perth, any amounts that are, in the opinion of the Minister, necessary or expedient —

- (a) for a purpose within the Perth parking management area that gives effect, or is connected with giving effect, to the Perth Parking Policy; or
 - (b) for the purpose of administering this Act or a purpose connected with its administration.
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24. Delegation of CEO's functions

- (1) The CEO may delegate any or all of his or her functions under this Act to a person (“**original delegate**”).
- 5 (2) The CEO may authorize an original delegate to delegate to another person any or all of the functions (except the power to delegate) that are delegated to the original delegate under subsection (1).
- 10 (3) The Minister may enter into an agreement, on the recommendation of the CEO, with another person or body for the person or body to carry out specified functions of the CEO in accordance with the agreement.
- 15 (4) If carrying out a function specified in an agreement depends upon the opinion, belief or state of mind of the CEO, then, subject to the agreement, the function may be carried out on the opinion, belief or state of mind of the person who is carrying it out under the agreement.
- 20 (5) For the purposes of this Act and any other written law, an act or thing that is done by, to, by reference to, or in relation to, a person or body, in connection with the carrying out by the person or body of a function of the CEO in accordance with an agreement, is as effectual as it would be if it were done by, to, by reference to, or in relation to, the CEO.

25. Requirement to pay fees or provide information

- 25 (1) If an application fee is payable by an applicant under this Act or the regulations, the CEO does not have to consider the application until the fee is paid.
- 30 (2) The CEO may ask an applicant to provide any information not given in the application that is relevant to making a decision on the application and is within the knowledge or control of the applicant.

s. 26

- (3) When the CEO asks an applicant for information, the CEO does not have to consider the application, or consider it further, until the information is provided.

26. Regulations

- 5 (1) The Governor may make regulations prescribing all matters —
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), regulations may —
- 10 (a) exempt applicants from payment of application fees for the issue, variation, renewal or transfer of parking bay licences in a prescribed class;
- (b) prescribe offences for the purposes of section 19 (except offences punishable by imprisonment) by setting out the
- 15 offences or by reference to the provision creating the offence; and
- (c) prescribing modified penalties not exceeding \$500 for an offence prescribed under paragraph (b).

