

CITY OF PERTH PARKING FACILITIES.

No. 65 of 1976.

**AN ACT to amend the City of Perth Parking
Facilities Act, 1956-1970.**

[Assented to 22nd September, 1976.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *City of Perth Parking Facilities Act Amendment Act, 1976*.

Short title
and citation.

(2) In this Act the City of Perth Parking Facilities Act, 1956-1970 is referred to as the principal Act.

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approved for
reprint 23rd
December,
1970.

(3) The principal Act as amended by this Act may be cited as the City of Perth Parking Facilities Act, 1956-1976.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 2
amended.

3. Section 2 of the principal Act is amended—

- (a) by deleting the passage “ss. 7-15” in line three and substituting the passage “ss. 7-14”;
- (b) by adding below line three a passage as follows—

PART IIA.—LICENSING OF PARKING
STATIONS AND PARKING
FACILITIES, ss. 15-15E. ;

- (c) by deleting the passage “ss. 16-19” in line five and substituting the passage “ss. 16-19A”; and
- (d) by deleting the passage “ss. 22-25” in the penultimate line and substituting the passage “ss. 22-24A”.

Section 4
amended.

4. Section 4 of the principal Act is amended—

- (a) by deleting the interpretation “inspector” and substituting an interpretation as follows—

“inspector” means a parking inspector appointed by the Council under this Act, and includes—

- (a) a Senior Parking Inspector or District Parking Inspector so appointed; and
- (b) a parking inspector so appointed who holds that office in conjunction with another office under this Act; ; and

- (b) by adding before the interpretation “the Council” an interpretation as follows—

“the central business district” means that portion of the municipal district of the City of Perth described in the Schedule to this Act together with any portion of that municipal district from time to time declared by regulation to be included in the central business district; .

5. Subsection (3) of section 7 of the principal Act is amended— Section 7 amended.

- (a) by adding after paragraph (c) a paragraph as follows—

(ca) for the provision, construction and maintenance of footways, overways and underways to facilitate the movement of pedestrians to and from parking stations or parking facilities; ;

- (b) by deleting paragraph (e) and substituting paragraphs as follows—

(e) subject to subsection (3a) of section eleven of this Act, for the provision, conduct and control of such services as are deemed under paragraph (a) or (b) of subsection (3) of that section to be parking facilities;

(ea) for the provision, conduct and control of such services as are deemed under paragraph (c) of subsection (3) of section eleven of this Act to be parking facilities and for subsidising the provision, conduct or control of such services by a person, body or authority other than the Council; ; and

(c) by adding after paragraph (h) a paragraph as follows—

(ha) for the carrying out by or on behalf of the Council, or by the Council in conjunction with any other person, body or authority, of research into matters relating to vehicular and pedestrian traffic and the parking of vehicles; .

Section 11
amended.

6. Section 11 of the principal Act is amended—

(a) by adding after paragraph (c) of subsection (1) a paragraph as follows—

(ca) provide, construct and maintain footways, overways and underways to facilitate the movement of pedestrians to and from parking stations or parking facilities; ;
and

(b) by repealing subsection (2) and substituting subsections as follows—

(2) The Council shall not establish a parking station or provide a parking facility, or alter or abolish a parking station or parking facility, or install a parking meter, except—

(a) at the written request of, and in accordance with the directions of, the Minister;

(b) with the approval in writing of, and in accordance with the directions of, the Minister; or

(c) subject to subsection (2a) of this section, after the expiration of fourteen days after written notice has been given to the Minister of a proposal by the Council to so establish that parking station, or so provide that parking facility, or so alter

or abolish that parking station or parking facility, or so install that parking meter.

(2a) Where written notice of a proposal by the Council is given to the Minister pursuant to paragraph (c) of subsection (2) of this section and, within fourteen days of being given that notice, the Minister gives the Council written notice directing it not to proceed with that proposal, the Council shall not proceed with that proposal.

(2b) Where the Minister makes a written request to the Council to appoint and set apart stands for the use of vehicles on, or to prohibit the standing or parking of vehicles on any portion of, any road or other place within a parking region, if the Council fails within fourteen days after the request is made to it to comply with such request, the Minister may so appoint and set apart such stands or so prohibit and for those purposes may abolish any metered space or stand provided or set apart by, and remove any meter or sign erected by, the Council under subsection (1) of this section. .

7. The principal Act is amended by adding after section 14 a heading as follows—

Heading added.

PART IIA.—LICENSING OF PARKING STATIONS AND PARKING FACILITIES. .

8. The principal Act is amended by repealing section 15 and re-enacting that section as follows—

Section 15 repealed and re-enacted.

15. (1) The Council may, with the approval of the Minister,—

Licensing of parking stations and parking facilities.

(a) grant—

(i) an ordinary license;

(ii) a temporary license; or

(iii) a special license,

for the establishment or provision of, and the operation of, a parking station or parking facility within a parking region for use by the public generally on payment of a fee or charge;

(b) renew a license granted under paragraph (a) of this subsection.

(2) Application for the grant or renewal of a license under this section shall be made in such form and contain such particulars as the Council may require.

(3) The Council may grant or renew a license under this section for such term as it thinks fit and specifies in the license or renewal, as the case may be.

Section 15A
added.

9. The principal Act is amended by adding after section 15 a section as follows—

Types of
licenses and
conditions
on licenses.

15A. (1) An ordinary license under section fifteen of this Act shall authorise land or a building that may otherwise lawfully be used for the purposes of vehicle parking for the use of the public generally to be used as a parking station or parking facility subject to such conditions as the Council thinks fit and are specified in the license in relation to—

- (a) the times during which the land or building may be used as a parking station or parking facility;
- (b) the periods for which vehicles may be parked in the parking station or parking facility;
- (c) the number of vehicles that may be parked in the parking station or parking facility;
- (d) the times at which vehicles may enter or leave the parking station or parking facility;

- (e) the construction, paving, drainage, marking, maintenance and conduct of the parking station or parking facility.

(2) A temporary license under section fifteen of this Act shall authorise land or a building which is intended for use or development for a purpose other than that of a parking station or parking facility to be used temporarily as a parking station or parking facility subject to such conditions as the Council thinks fit and are specified in the license in relation to—

- (a) the times during which the land or building may be used as a parking station or parking facility;
- (b) the periods for which vehicles may be parked in the parking station or parking facility;
- (c) the number of vehicles that may be parked in the parking station or parking facility;
- (d) the times at which vehicles may enter and leave the parking station or parking facility;
- (e) the construction, paving, drainage, marking, maintenance and conduct of the parking station or parking facility.

(3) A special license under section fifteen of this Act shall authorise land or a building in the vicinity of a sporting venue or other venue used for purposes of public entertainment to be used as a parking station or parking facility from time to time subject to such conditions as the Council thinks fit and are specified in the license in relation to the day or days on which and the times during which the land or building may be used as a parking station or parking facility. .

Section 15B
added.

10. The principal Act is amended by adding after section 15 a section as follows—

Variation of
condition.

15B. (1) Subject to subsection (2) of this section any condition specified in a license under section fifteen of this Act may be varied from time to time by the Council, with the approval of the Minister, by notice in writing given to the holder of the license, and thereupon that condition as so varied is deemed to be a condition specified in the license.

(2) The Council shall not make a substantial variation pursuant to subsection (1) of this section until after the expiration of a period agreed upon between the Council and the license holder, and in the event of there being no agreement, or of any question arising as to whether a variation is substantial, that period or question shall be determined by the Minister.

(3) Where a license under section fifteen of this Act relates to a parking station or parking facility situated in the central business district the Minister may from time to time give directions in writing to the Council concerning the variation of any condition specified in that license.

(4) The Council shall comply with and give effect to a direction given under subsection (3) of this section by giving notice in writing to the holder of the license varying the condition in the manner directed by the Minister and thereupon that condition as so varied is deemed to be a condition specified in the license. .

Section 15C
added.

11. The principal Act is amended by adding after section 15 a section as follows—

Fees may be
imposed for
certain
licenses.

15C. (1) Subject to subsection (2) of this section, where the Minister approves of the grant or renewal of a license under section fifteen of this Act in respect of a parking station or parking facility situated in the

central business district he may, by notice in writing given to the Council and the person applying for the grant or renewal of that license, direct that an annual fee specified in the notice shall be payable to the Council in respect of that license.

(2) The Minister shall not give a direction pursuant to subsection (1) of this section unless—

- (a) after approving of the grant or renewal of the license referred to in that subsection he has, by notice in writing given to the Council and the licensee, informed the Council and the licensee that he intends to give such a direction; and
- (b) a period of fourteen days has elapsed since the date on which he gave the notice under paragraph (a) of this subsection or, if that notice was given to the Council and the licensee on different days, since the later of those days.

(3) Where pursuant to subsection (1) of this section the Minister directs that an annual fee shall be payable in respect of a license under section fifteen of this Act it shall be a condition of that license that the license holder shall pay that fee to the Council on or before such date as is fixed by the Council in each year of the term for which the license is granted or renewed, as the case may be, and that condition shall be deemed to be specified in the license. .

12. The principal Act is amended by adding after section 15 a section as follows—

Section 15D
added.

15D. (1) Where a person makes an application in accordance with section fifteen of this Act, but the Council refuses to grant him a license or renewal of a license, as the case may be, or grants it to him for a term, or on any

Appeals to
Minister.

condition, that is unsatisfactory to him, he may, within thirty days of receiving notice of the decision of the Council refusing or granting the license or renewal, as the case may be, appeal to the Minister against that decision by notice in writing a copy of which is served on the Council.

(2) Where a person appeals to the Minister in accordance with subsection (1) of this section, the Minister may, by direction in writing a copy of which is served on the person and the Council, uphold, reverse, or vary the decision of the Council and such a direction is final and conclusive and shall have effect according to its tenor.

Section 15E
added.

13. The principal Act is amended by adding after section 15 a section as follows—

Offences.

15E. (1) Subject to subsections (2) and (3) of this section a person other than the Council shall not establish, provide, or operate a parking station or parking facility within a parking region for use by the public generally on payment of a fee or charge unless he is the holder of a license under section fifteen of this Act.

Penalty: A fine of two hundred dollars or imprisonment for one month.

(2) Subsection (1) of this section does not apply to or in relation to a parking station or parking facility that was in operation on the first day of December, 1956.

(3) Subsection (1) of this section does not apply to or in relation to a parking station or parking facility that was in operation immediately before the date of the coming into operation of section eight of the City of Perth Parking Facilities Act Amendment Act, 1976 under an approval granted under section fifteen of this Act as enacted before that date, until the expiration of a period of two years from that date.

(4) A person who is the holder of a license under this section shall not contravene or fail to comply with a condition specified in that license.

Penalty: A fine of two hundred dollars or imprisonment for one month.

(5) Where a person is convicted of an offence under subsection (4) of this section the Council may revoke the license held by that person under section fifteen of this Act. .

14. Section 19 of the principal Act is amended by repealing subsections (1), (2) and (3) and substituting subsections as follows—

Section 19
amended.

(1) The owner of a vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted shall, if required by a member of the Police Force or an inspector, inform the member or inspector as to the identity and address of the driver or person in charge of the vehicle at the time when an offence is alleged to have been committed against this Act by the driver or person in charge of the vehicle (in this section called "the relevant time").

(Cf. No. 30
of 1918, s. 4
"this Act").

Penalty: A fine of twenty dollars.

(2) In proceedings under subsection (1) of this section against the owner of the vehicle it is a defence for the defendant to show that, at the relevant time, the possession or control of the vehicle was entrusted to another person and that he informed the member of the Police Force or inspector as to the identity and address of that other person.

(3) In any proceedings under subsection (1) of this section it is a defence for the defendant to show that, at the relevant time, the vehicle had been stolen or was being unlawfully used. .

Section 19A
added.

15. The principal Act is amended by adding after section 19 a section as follows—

Owner of
vehicle may
be deemed to
be offender.
(Cf. No. 30
of 1918, s. 4:
"this Act").

19A. (1) Where an offence against this Act, being an offence for which a modified penalty is prescribed, is alleged to have been committed by the driver or person in charge of a vehicle (in this subsection called "the offender") and a notice under this subsection addressed to the owner of the vehicle at the time the offence is alleged to have been committed (in this subsection called "the owner") is served on the owner, or left in or on the vehicle, by an inspector, then unless within twenty-one days of the date on which that notice was so served or left—

- (a) the owner informs the Council or an inspector, in writing, as to the identity and address of the offender or furnishes information to the Council or an inspector from which the Council or an inspector is satisfied that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) the modified penalty prescribed for the offence is paid to the Council,

the owner shall be deemed to be the person who committed the offence and shall be liable to pay the penalty prescribed for the offence.

(2) A notice under subsection (1) of this section shall—

- (a) be in the prescribed form;
- (b) contain particulars of the offence alleged to have been committed; and
- (c) specify the amount of the modified penalty prescribed for the offence alleged to have been committed.

(3) Where a notice under subsection (1) of this section is left in or on a vehicle it may be addressed to the owner of the vehicle without naming him or stating his address. .

16. Section 20 of the principal Act is amended— Section 20 amended.

- (a) by deleting the passage “region.” in the last line and substituting the passage “region;”; and
- (b) by adding after paragraph (d) a paragraph as follows—
 - (e) declaring any specified portion of the municipal district of the City of Perth to be included in the central business district. .

17. Section 21 of the principal Act is amended— Section 21 amended.

- (a) by adding after paragraph (e) of subsection (1) a paragraph as follows—
 - (ea) regulating the speed at which, and the manner in which, vehicles may be driven in parking stations and generally regulating the conduct of the public in parking stations; ;
- (b) by deleting paragraph (u) of subsection (1) and substituting a paragraph as follows—
 - (u) prescribing a modified penalty or modified penalties payable to the Council by a person or class of person who—
 - (i) receives a notice served or left pursuant to subsection (1) of section nineteen A of this Act; or

- (ii) does not contest an allegation that he committed any specified offence against the by-laws,

and providing that the production of an acknowledgement from the Council of the payment of a modified penalty is a defence to a charge of the offence in respect of which that modified penalty was paid; ;

- (c) by deleting the words “revoking any by-law made by the Council under this Act” in lines three and four of paragraph (a) of subsection (3), and substituting the passage “in such terms, or to such effect, or for such purpose, as is specified by the Minister”; and

- (d) by adding after paragraph (c) of subsection (3) a paragraph as follows—

- (d) Nothing in this subsection confers any power on the Minister—

- (i) to require the Council to make a by-law; or

- (ii) to make a by-law,

unless that by-law is a by-law that the Council is authorised to make under subsection (1) of this section. .

Section 25
repealed.

18. The principal Act is amended by repealing section 25.

Schedule
substituted.

19. The principal Act is amended by repealing the Schedule and substituting a Schedule as follows—

SCHEDULE.

CENTRAL BUSINESS DISTRICT.

All that portion of land shown delineated and bordered in red on Lands and Surveys Miscellaneous Plan 842.

Lands and Surveys Public Plans:

P205-4
P219-4
P221-4
P203-2 NE
P203-2 SE
P204-2 NW
P204-2 SE
P204-2 SW
P220-2 NW
P220-2 NE
P220-2 SW
P220-2 SE
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