

WESTERN AUSTRALIA.

CITY OF PERTH PARKING FACILITIES ACT 1956-1982.

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WESTERN AUSTRALIA.

CITY OF PERTH PARKING FACILITIES.

5° Elizabeth II., No. LXXXVI.

No. 86 of 1956.¹

(Affected by Acts No. 57 of 1958 and 113 of 1965)

[As amended by Acts—

No. 32 of 1958, assented to 27 November 1958;
No. 51 of 1961, assented to 23 November 1961;
No. 81 of 1965, assented to 7 December 1965;
No. 82 of 1969, assented to 7 November 1969;
No. 73 of 1970, assented to 17 November 1970;
No. 65 of 1976², assented to 22 September 1976;
No. 20 of 1981, assented to 26 May 1981;
No. 98 of 1982, assented to 22 November 1982,

and reprinted pursuant to the Amendments Incorporation Act 1938.]

AN ACT to provide for the Control and Regulation by the Council of the City of Perth of the Parking or Standing of Vehicles in certain defined regions within the District of the City of Perth; to confer on the Council certain powers in relation to such Control and Regulation and in relation to the Establishment, Provision and Operation of Parking Stations and Parking Facilities, including the Installation and Operation of Parking Meters, the provision of Zones and Spaces or Stalls for the Installation of Parking Meters within those regions; to vest in the Council the Care, Control and Management of those Stations, Facilities,

¹ Came into operation 28 July 1958; see *G.G.* 18/7/58, p. 1606.

² Came into operation on 18 February 1977; see *Gazette* 18/2/77, p. 467.

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Zones, Spaces and Meters; to authorize the Council to Borrow certain Moneys and to Regulate the Application of those Moneys and other Revenue received by the Council from Sources authorized by this Act; to amend the Traffic Act 1919-1955¹ and for other purposes.

[Assented to 18 January 1957.]

BE it enacted:—

Short title.
Amended by
No. 98 of
1982, s. 1.

1. This Act may be cited as the *City of Perth Parking Facilities Act 1956-1982*.

Arrange-
ment.
Amended by
No. 65 of
1976, s. 3.

2. This Act is arranged as follows:—

PART I.—PRELIMINARY, ss. 3-6.

PART II.—FINANCE AND ADMINISTRATION, ss. 7-14.

PART IIA.—LICENSING OF PARKING STATIONS AND
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THE SCHEDULE.

PART I.—PRELIMINARY.

Commence-
ment.

3. (1) This Act shall come into operation on a day to be fixed by proclamation.²

(2) After the passing of this Act and notwithstanding that a day has not been fixed by proclamation as that of the coming into operation of this Act,

¹ Now Road Traffic Act 1974.

² Came into operation 28 July 1958. See G.G. 18/7/58, p. 1606.

- (a) any parking region may be constituted and defined; and
- (b) the Council may exercise such powers conferred on it and perform such duties and obligations imposed on it by this Act as may be necessary or expedient for the purpose of bringing this Act into operation on that day

as validly as if this Act had been proclaimed to come into operation but no regulation or by-law shall have force or effect until that day.

(3) The provisions of subsection (2) of this section are in addition to and not in derogation of those of section eleven or any other provisions of the Interpretation Act 1918.

4. In this Act unless the context requires otherwise—

Interpretation.
Amended by
No. 32 of
1958, s. 2;
No. 65 of
1976, s. 4.

“driver” includes rider;

“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;

“metered space” means a section or part of a metered zone in or adjacent to which a parking meter is installed and which is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;

Cf. N.S.W.
Motor Traffic
Act 1909-1955,
s. 270C.

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“metered zone” means any road or reserve or any part of a road or reserve in which parking meters are installed;

“Minister” means Minister for Transport or such other member of the Executive Council as is for the time being charged by the Governor with the administration of this Act;

“owner” of a vehicle means the person who is the holder of the requisite vehicle licence under the Traffic Act 1919¹ in respect of that vehicle, or, if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession;

“parking” means the standing of a vehicle, when not employed in taking up or setting down persons or goods, but does not include the standing of a vehicle in compliance with a traffic sign or direction or with an order of a member of the Police Force or an inspector lawfully made or given; and the verb “to park” and its inflections and derivatives have correlative meanings;

“parking facilities” includes land, buildings, shelters, metered zones, metered spaces, signs, notices and other facilities open to the public generally for the parking of vehicles with or without charge;

“parking meter” includes the stand on which the meter is erected;

“parking station” means any land, building or other structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered space or private garage;

¹ Now Road Traffic Act 1974.

"road" means any road, street, lane, thoroughfare or similar place which is within a parking region and is under the care, control and management of the Council; and includes a footpath appurtenant thereto;

"standing" includes the standing of a vehicle whether or not employed in taking up or setting down persons or goods and inflections of the verb "to stand" have correlative meanings;

"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;

"the Council" means the Council of the City of Perth;

"the district" means the municipal district of the City of Perth;

"vehicle" includes any vehicle which comes within the interpretation of that expression in the Traffic Act 1919.¹

5. (1) This Act does not apply in respect of any area, road or portion of a road which is not within a parking region constituted and defined by regulation.

Application
of Act to
parking
regions only.

(2) (a) Any portion of the municipal district of the City of Perth may be constituted a parking region.

¹ Now Road Traffic Act 1974.

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(b) Any specified road or portion of a road may be excluded from a parking region.

(3) A parking region so constituted may by regulation be extended or reconstituted with altered boundaries.

(4) The extension or reconstitution with altered boundaries of a parking region or the subsequent exclusion from a parking region of any specified road or portion of a road, does not affect any penalty or punishment incurred, imposed or liable to be incurred or imposed prior to the extension, reconstitution, or exclusion, as the case may be, or any investigation or legal proceeding in respect of such a penalty or punishment, notwithstanding the provisions of section eleven of The Criminal Code.

This Act not to affect Traffic Act¹ and Municipal Corporations Act² except to extent provided in, or necessary to give effect to, this Act.

6. (1) No provision of this Act shall be construed as affecting the operation of the Traffic Act 1919,¹ or of the regulations made under that Act, or of the Municipal Corporations Act 1906,² or the by-laws made under that Act, or any matter or thing done or omitted or purporting to be done or omitted pursuant to any provision of those Acts or those regulations or by-laws, except to the extent provided in, or necessary to give effect to, this Act.

(2) Where there is inconsistency between any provision of the Traffic Act 1919,¹ or of the regulations made under that Act, or of the Municipal Corporations Act 1906,² or of any by-law made by the Council under that Act, and any provision of this Act, the provision of this Act shall prevail and the provision first referred to in this subsection shall to the extent of the inconsistency have no effect.

¹ Now Road Traffic Act 1974.

² Repealed by Local Government Act 1960.

PART II.—FINANCE AND ADMINISTRATION.

7.¹ (1) The Council shall open and maintain an account to be known as the "Parking Fund" in this Act referred to as the "Fund."

The Parking Fund.
Amended by
No. 81 of
1965, s. 2;
No. 65 of
1976, s. 5;
No. 20 of
1981, s. 2.

(2) All revenue received by the Council and all charges, fines and other penalties paid or recovered under or pursuant to this Act shall be paid into the Fund or to the Council to be credited to that Fund.

(3) The Council shall utilise the moneys in the Fund—

- (a) for the administration of such departments and the remuneration of such inspectors and other officers as the Council considers necessary for the purpose of exercising its powers and functions under this Act;
- (b) for the purchase, acquisition, maintenance, alteration, and improvement of land, buildings and other structures, parking meters and other mechanical devices, signs and other accessories, equipment and appliances for the establishment and provision of parking stations, parking facilities, metered zones and metered spaces and for the regulation and control of the parking and standing of vehicles within any parking region in accordance with the provisions of this Act;

¹ Section 7 of Act No. 20 of 1981 reads as follows—

7. (1) The provisions of the principal Act as amended by sections 2 and 3 of this Act are deemed to apply to and in relation to any parking station or parking facility whether established before or after the coming into operation of this Act.

(2) Where by virtue of subsection (1) of this section the consent of the Minister is required in respect of the provision before the coming into operation of this Act for the use of the land or part of any building or structure of a parking station or parking facility for—

(a) other municipal purposes; or

(b) commercial or other purposes, including the provision of premises for retail trading,

the Council shall apply for that consent as soon as is practicable after the coming into operation of this Act and the provisions of the principal Act as amended by this Act apply to and in relation to that consent accordingly.

Act to apply to parking stations and parking facilities commenced before this Act.

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- (ba) for the purchase or acquisition of land, buildings and other structures, for the provision, by means of street widening, of parking facilities, metered zones and metered spaces and for the regulation and control, by that means, of the parking and standing of vehicles within any parking region in accordance with the provisions of this Act;
- (c) for the establishment, provision, extension, the maintenance in good order and condition and operation of parking stations, parking facilities, metered zones and metered spaces in accordance with the provisions of this Act;
- (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;
- (d) for the installation, and the regulation of the use of parking meters in accordance with the provisions of this Act;
- (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;
- (f) for the collection and recovery of charges, fines and penalties prescribed by or under this Act;

- (g) for the repayment of any advance or advances of moneys appropriated by Parliament, or of any moneys advanced by or from any government department, or body or other government source, and received by the Council for the setting in motion and the promotion of any work necessary to give effect to the objects of this Act;
- (h) for the payment of interest on, and the repayment of, any moneys advanced by the Government to the Council in terms of its guarantee in accordance with the provisions of subsection (5) of section eight of this Act;
- (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;
- (i) for generally carrying out the objects and purposes of this Act; and
- (j) after provision is made for meeting the expenditure with respect to the purposes specified in the foregoing paragraphs of this subsection,
 - (i) during the first seven years after the coming into operation of this Act, for the payment of such interest on, and the repayment of, such moneys borrowed in accordance with the provisions of section eight of this Act as could be met from the balance remaining in the Fund; and
 - (ii) on and after the termination of the seventh year after the coming into operation of this Act, for the payment of all interest on, and the repayment, as necessary, of the balance of such moneys as remain owing by the Council.

(4) Where any part of any land, building or other structure used or intended to be used pursuant to this Act for the purposes of a parking station or parking facility is, pursuant to section 11A of this Act, used or to be used for other municipal purposes or for other purposes approved by the Minister under that section then all moneys received by the Council in respect of that part shall be paid into the Fund and the Council may utilise those moneys in the Fund in relation to any parking station or parking facility or proposed parking station or proposed parking facility.

Borrowing
powers of
the Council.
Amended by
No. 113 of
1965, s. 8.

8. (1) Subject to the provisions of this section, the Council is authorized to borrow, on the credit of the Council, several sums of money, not exceeding in the aggregate the sum of eight hundred and ninety-four thousand dollars.

(2) The money may be borrowed for the purposes of exercising the powers conferred, and performing the duties and obligations imposed, on the Council under this Act, or to liquidate the principal moneys owing by the Council on account of any previous loan raised for any of those purposes under this Act.

(3) No money shall be borrowed by the Council under the provisions of this section without the consent of the Governor.

(4) All moneys borrowed under this section shall be paid into the Fund and form part of the Fund.

(5) (a) The payment of all moneys due by the Council in respect of moneys borrowed under this section whether by way of interest or principal is, for a period of seven years commencing from the date of the coming into operation of this Act, guaranteed by the Government of the State.

(b) Any liability arising from that guarantee is payable and shall be paid out of the Consolidated Revenue Fund in half-yearly instalments.

(6) The provisions of Part XXIV of the Municipal Corporations Act 1906,¹ with the exception of sections four hundred and thirty-eight to four hundred and forty-two inclusive, sections four hundred and fifty to four hundred and fifty-six inclusive and sections four hundred and seventy-two and four hundred and seventy-three, apply and have effect *mutatis mutandis* to any loan raised under this section as if the loan were money borrowed pursuant to, and for a purpose mentioned in that Part of that Act.

8A. (1) Nothing in section seven or eight of this Act operates so as to prevent the Council from—

Use of other borrowing powers. Inserted by No. 82 of 1969, s. 2. Amended by No. 73. of 1970, s. 2.

(a) borrowing money—

(i) with the approval of the Treasurer and the Minister, under and in accordance with the provisions of Division 2 of Part XXVI of the Local Government Act 1960; or

(ii) under and in accordance with the provisions of Division 3 of that Part of that Act,

for the purposes of exercising the powers conferred, and the performance of duties and obligations imposed, upon the Council under this Act;

(b) paying into the Fund moneys borrowed by the Council in the manner described in paragraph (a) of this subsection for the purposes referred to in that paragraph; or

(c) utilizing moneys in the Fund for meeting the Council's commitments in respect of interest, repayment instalments or sinking fund instalments, in relation to moneys borrowed by the Council in the manner described in paragraph (a) of this subsection for the purposes referred to in that paragraph.

¹ Repealed by Local Government Act 1960.

(2) Where the Council borrows moneys under the provisions of Division 2 or 3 of Part XXVI of the Local Government Act 1960 for the purposes referred to in paragraph (a) of subsection (1) of this section, it shall—

- (a) pay all moneys so borrowed into the Fund;
- (b) notwithstanding anything contained in this Act or in those Divisions, use only moneys in the Fund for the purpose of meeting any of its commitments, including commitments in respect of interest, repayment instalments or sinking fund instalments, in relation to the moneys so borrowed.

Council
to report on
its activities
to Minister.

9. (1) The Council shall, on or before the expiry of two months after the termination of the Council's financial year, in each and every year submit to the Minister a report of its activities under this Act which were carried out during the preceding financial year, such report to be laid on the Table of both Houses of Parliament in this State within fourteen days of it being received by the Minister, provided that where Parliament is in recess, the fourteen day period shall commence to take effect as from the first sitting day of such Parliament.

(2) The report shall be supported by such accounts, duly audited, and such statements as may be required by the Minister.

Powers of
Council
additional
to those
conferred by
other Acts.

10. The Council may exercise all or any of the powers conferred on it by this Act in addition to the powers conferred on it by any other Act, whether that other Act came into operation before, or comes into operation after, the coming into operation of this Act.

11. (1) The Council may—

Powers of
Council.
Amended by
No. 32 of
1958, s. 3;
No. 51 of
1961, s. 2;
No. 65 of
1976, s. 6;
No. 98 of
1982, s. 2.

- (a) create and administer such departments and appoint such inspectors and other officers as the Council considers necessary for the purpose of exercising all or any of its powers and functions under this Act;
- (b) subject to subsection (2) of this section,
 - (i) on any land which is within a parking region and which is acquired by or vested in, or which is under the care, control and management of, the Council, establish, control and manage parking stations;
 - (ii) and subject to the provisions of subsection (3a) of this section, provide, manage and operate parking facilities in parking stations;
 - (iii) in or off any road or reserve under the care, control and management of the Council, provide, control, and manage, metered zones, metered spaces and other parking facilities;
 - (iv) alter, enlarge or abolish any parking station, facility, metered zone or metered space established or provided under this Act;
 - (v) in or off any road or reserve under the care, control, or management of the Council, provide, erect, and maintain, any sign or notice required for the purposes of this Act;
- (c) alter or improve the landscape of any parking station;
- (ca) provide, construct and maintain footways, overways and underways to facilitate the movement of pedestrians to and from parking stations or parking facilities;

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- (d) demand and recover such fees and charges as are prescribed for the use of any parking station or parking facility provided under this Act;
- (e) subject to subsection (2) of this section, in any metered space install a parking meter;
- (f) demand and recover in respect of any vehicle occupying a metered space such fees and charges as are prescribed;
- (g) subject to the by-laws, lease to any person, on such terms and conditions as the Council thinks fit, any parking station or parking facility established or provided in accordance with this Act;
- (h) with the approval of the Minister, appoint and set apart stands for the use of specified vehicles or classes of vehicles on roads or other places within a parking region;
- (i) insure against any liability which it might incur under the provisions of this Act;
- (j) sell any land or improvements purchased or compulsorily taken by the Council for the purposes of this Act, or any appliance or equipment acquired for those purposes, but shall pay the proceeds of sale into the Fund;
- (k) with the consent of the Minister, permit a community association to use a parking station or parking facility for the purposes of the community association during such hours and subject to such conditions as the Council may, with the approval of the Minister, specify but such use shall not be permitted at any time when the parking station or parking facility would otherwise be available for the parking of vehicles.

(1a) For the purposes of subsection (1) (k), "community association" means an institution, association, club, society or body, whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the transactions thereof.

(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.

(3) For the purposes of this section the supply of—

- (a) petrol, oil or other accessories; or
- (b) vehicle cleaning and other facilities; or
- (c) an omnibus or other transport service approved by the Minister for the purpose of conveying persons and their luggage between a parking station or parking facility and any central point within the district,

shall be deemed to be included within the meaning of a parking facility: But no service which requires the setting up of a workshop shall be deemed to be a parking facility.

(3a) Notwithstanding the provisions of subparagraph (ii) of paragraph (b) of subsection (1) of this section, the Council shall not manage or operate a parking facility which provides any of the services referred to in paragraphs (a) and (b) of subsection (3) of this section.

(4) A parking station or a parking facility may be provided at ground surface level or above or below ground surface level.

Parking station may be used for other commercial purposes.
Inserted by No. 20 of 1981, s. 3.

11A.¹ (1) The Council may, with the consent of the Minister, make provision, at ground surface level, for the use of the land or a part of any building or structure of a parking station or parking facility for—

- (a) other municipal purposes;
- (b) commercial or other purposes, including the provision of premises for retail trading.

¹ See footnote to s. 7.

(2) The provisions of subsection (1) of this section apply whether the land, or a part of any building or other structure is taken compulsorily pursuant to section 14 of this Act or is acquired by agreement and the whole land, building or other structure is deemed to be required for the purpose of establishing a parking station or parking facility notwithstanding the provision for such other use of any part.

(3) Where the Minister gives a consent in terms of subsection (1) of this section the Minister shall, as soon as is practicable, cause notice of such consent to be published in the *Government Gazette*.

(4) A copy of every notice published in the *Government Gazette* pursuant to subsection (3) of this section shall be laid before each House of Parliament within 6 sitting days of the House next following the date of the publication of the notice in the *Government Gazette*.

(5) Either House may, by resolution of which resolution notice has been given at any time within 12 sitting days of such House after the notice has been laid before it, pass a resolution disallowing the consent of the Minister.

(6) As soon as the Minister's consent is no longer subject to disallowance under subsection (5) of this section the consent shall have effect.

(7) If either House of Parliament passes a resolution disallowing the consent the Minister shall cause notice of the disallowance to be published in the *Government Gazette* within 21 days of the passing of the resolution.

11B.¹ (1) Notwithstanding anything in the Local Government Act 1960 but subject to this Act, where pursuant to section 11A of this Act—

Council
to sell
commercial
and other
premises in
a parking
station.

Inserted by
No. 20 of
1981, s. 3.

¹ See footnote to s. 7.

- (a) the Minister has consented to the Council making provision for use of part of a parking station or parking facility for purposes other than municipal purposes; and
- (b) the Minister's consent has taken effect,

the Council shall as soon as is practicable dispose of that part of the land in respect of which the consent has so taken effect by selling the land.

(2) Any land sold by the Council pursuant to subsection (1) of this section shall be subject to such restrictions and conditions (if any) as the Council may, with the approval of the Minister, impose.

(3) Where the Minister approves of any restrictions and conditions proposed to be imposed by the Council in respect of any land sold by the Council pursuant to this section the Minister shall cause a memorial of the restrictions and conditions together with his approval thereof to be lodged with the Registrar of Titles who shall enter in the register book a memorandum of such memorial.

(4) Notwithstanding anything in the Property Law Act 1969, Division 3A of Part IV of the Transfer of Land Act 1893, the Strata Titles Act 1966, or any rule of law to the contrary, every restriction or condition imposed by the Council and notified in the register book in accordance with this section in respect of any land sold pursuant to this section binds the purchaser of the land and his successors in title (including the owners and occupiers for the time being of the land) other than the Council and may be enforced by the Council in any court of competent jurisdiction and the court may make such order as is necessary in that regard.

(5) The restrictions or conditions imposed by the Council under this section may vary as between different purchasers and as between separate occupancies within the same land, building or structure.

(6) Where pursuant to any restriction or condition imposed by it or otherwise the Council purchases or acquires any land sold by it under this section the Council shall, if the Council does not require the land for use for a parking station or parking facility or for other municipal purposes, again sell the land.

(7) The Council may at any time, with the approval of the Minister, vary any restrictions and conditions then applicable in respect of the land.

(8) Where the Council, pursuant to subsection (7), varies the restrictions and conditions then applicable in respect of any land the Minister shall cause to be lodged with the Registrar of Titles—

(a) a notice withdrawing any memorial then applicable in relation to the land; and

(b) a memorial notifying the Registrar of Titles of the varied restrictions and conditions to be applicable to the land,

and the Registrar shall enter in the register book a memorandum of every such notice and memorial and the provisions of subsection (4) of this section apply in respect of any such restriction or condition.

(9) Notwithstanding anything in this section the Minister may, at the request of the Council, cause a notice withdrawing any memorial applicable in relation to any land to be lodged with the Registrar of Titles and effect shall be given to such notice.

11C.¹ Unless the Governor otherwise directs any sale of land pursuant to section 11A or 11B of this Act shall be only to the highest bidder at public auction, or to the person who at public tender called by the Council makes what is in the opinion of the Council, the most acceptable tender, whether his tender is or is not the highest.

Governor's
approval
to be
obtained
in certain
cases.
Inserted by
No. 20 of
1981, s. 3.

¹ See footnote to s. 7.

Care, control and management of parking stations, etc., vested in Council.

12. (1) Subject to the provisions of this Act and notwithstanding the provisions of any other Act, the care, control and management of all parking stations, parking facilities, metered zones, metered spaces and parking meters established, provided or installed by the Council under this Act within any parking region shall be vested in the Council.

(2) The Council shall maintain and keep in good order and condition or cause to be so maintained and kept all parking stations, parking facilities, metered zones, metered spaces and parking meters, the care, control and management of which are so vested in the Council.

Council to conduct surveys to determine parking requirements.

13. The Council may, and when required by the Minister shall, conduct or cause to be conducted, or appoint a person approved by the Minister to conduct, surveys, inquiries and studies necessary to determine the need or requirements for establishing, providing, altering, enlarging or abolishing parking stations, parking facilities, metered zones or metered spaces or to determine the location of any such station, facility, zone or space and shall submit to the Minister a report on the results of the surveys, inquiries and studies so conducted.

Power to take land compulsorily.

14. The Council may, subject to the approval of the Minister and with the consent of the Governor, take land within a parking region compulsorily under and subject to the provisions of the Public Works Act 1902, for the purpose of establishing any parking station or providing any parking facility under the provisions of this Act, and the provisions of the Public Works Act 1902, shall apply in respect of such taking in all respects as if the land were required for the purpose of a public work within the meaning of that Act.

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

Heading
inserted by
No. 65 of
1976, s. 7.

15. (1) Subject to this section, the Council may,
with the approval of the Minister,—

Licensing
of parking
stations and
parking
facilities.

Substituted
by No. 65 of
1976, s. 8.
Amended by
No. 20 of
1981, s. 4.

(a) grant—

(i) an ordinary licence;

(ii) a temporary licence; or

(iii) a special licence,

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

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

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

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

(4) The Council shall not grant a temporary
licence for a period exceeding two years.

(5) Where—

(a) an application is an application for the
renewal of a temporary licence; and

(b) the temporary licence, if renewed, would
license the temporary parking station or
parking facility the subject of the applica-
tion for a term exceeding a total period of
two years,

the Council shall consider the application and sub-
mit the application and its recommendations
thereon (if any) to the Minister who may exercise

all the powers conferred on the Council by this Part of this Act in relation to the application and the decision of the Minister is final and conclusive.

Types of
licences and
conditions
on licences.
Inserted by
No. 65 of
1976, s. 9.

15A. (1) An ordinary licence under section fifteen of this Act shall authorize 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 licence 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 licence under section fifteen of this Act shall authorize 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 licence 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 licence under section fifteen of this Act shall authorize 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 licence 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.

15B. (1) Subject to subsection (2) of this section any condition specified in a licence 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 licence, and thereupon that condition as so varied is deemed to be a condition specified in the licence.

Variation of
condition.
Inserted by
No. 65 of
1976, s. 10.

(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 licence 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 licence 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 licence.

(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 licence 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 licence.

Fees may be imposed for certain licences. Inserted by No. 65 of 1976, s. 11.

15C. (1) Subject to subsection (2) of this section, where the Minister approves of the grant or renewal of a licence 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 licence, direct that an annual fee specified in the notice shall be payable to the Council in respect of that licence.

(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 licence 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 licence under section fifteen of this Act it shall be a condition of that licence that the licence 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

licence is granted or renewed, as the case may be, and that condition shall be deemed to be specified in the licence.

15D. (1) Where a person makes an application in accordance with section fifteen of this Act, but the Council refuses to grant him a licence or renewal of a licence, as the case may be, or grants it to him for a term, or on any condition, that is unsatisfactory to him, he may, within thirty days of receiving notice of the decision of the Council refusing or granting the licence 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.

Appeals to
Minister.
Inserted by
No. 65 of
1976, s. 12.

(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.

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 licence under section fifteen of this Act.

Offences.
Inserted by
No. 65 of
1976, s. 13.
Amended by
No. 20 of
1981, s. 5.

Penalty: A fine of two hundred dollars and if the offence is a continuing one a further fine of one hundred dollars for every day during which the offence has continued.

(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.

(3a) A person, other than the Council, who on or in any land or building provides space that is used for the parking of vehicles is deemed, for the purposes of this Act, to provide or operate a parking station or parking facility for the use of the public generally irrespective of the terms and conditions upon which that space is so provided.

(3b) Subsection (3a) of this section does not apply in respect of—

(a) the use of space on any land or in any building for the parking of vehicles where that use is ancillary to the *bona fide* use or occupation of other premises on the land or in the building;

(b) the use of space on any land or in any building for the parking of vehicles in circumstances other than those mentioned in paragraph (a) of this subsection if—

(i) the space so used consists only of spare parking space that is not for the time being required for use in the circumstances referred to in paragraph (a) of this subsection; and

(ii) the person providing that space for the use of the parking of vehicles is not carrying on the business of providing or operating a parking station or parking facility.

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

Penalty: A fine of two hundred dollars and if the offence is a continuing one a further fine of one hundred dollars for every day during which the offence has continued.

(5) Where a person is convicted of an offence under subsection (4) of this section the court may, in addition to any other penalty that may be imposed under that subsection, revoke the licence held by that person under section fifteen of this Act and where the court does so the licence held by that person is revoked accordingly.

PART III.—PARKING CONTROL AND INSPECTORS.

16. (1) An inspector—

Parking
inspectors.
Amended by
No. 113 of
1965, s. 8.

- (a) may by virtue of his office, with the approval of the Council or a person authorized by it, institute and carry on any proceedings against any person for any alleged offence against this Act, or for any alleged offence against any regulation under the Traffic Act 1919¹, whether made before or after the coming into operation of this Act, which has the effect of prohibiting or restricting the parking or standing of vehicles in any road or place within a parking region prescribed under this Act;
- (b) may exercise all such powers and shall perform all such duties as are vested in or imposed on him by this Act and for the purpose of making investigations or inquiries concerning any offence against this Act committed within a parking region, may question, interview or obtain particulars from persons residing outside that region or the district;
- (c) shall be reimbursed out of the Parking Fund established under section seven of this Act

¹ Now Road Traffic Act 1974.

all costs and expenses which he may incur in the discharge of his functions and duties as an inspector under this Act; and

(d) may be dismissed from office by the Council.

(2) (a) An inspector shall be furnished with a certificate of his appointment, the form of which shall be prescribed by by-law.

(b) An inspector shall produce the certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise, any of his powers under this Act.

Penalty: A fine of forty dollars.

(3) The Council shall with the approval of the Minister, prescribe a uniform to be worn, or authorize the wearing of a uniform, by an inspector while on duty.

Regulation
and control
of parking
within
parking
region to be
administered
by Council.

17. (1) Notwithstanding any provision of the Traffic Act 1919,¹ on and after the coming into operation of this Act, the regulation and control of the parking and standing of vehicles on any road, or in any parking station, within a parking region shall be administered by the Council subject to the general control and direction of the Minister.

(2) Notwithstanding the provisions of subsection (1) of this section, it is the duty of every member of the Police Force when called upon to aid and assist a parking inspector in the exercise and discharge of his powers and duties under this Act and a member of the Police Force may whether so called upon or not, exercise all or any of the powers and perform all or any of the duties of a parking inspector.

(3) The Council may review any action or decision of an inspector but not any action or decision of a member of the Police Force.

¹ Now Road Traffic Act 1974.

18. (1) A member of the Police Force or an inspector may during any temporary obstruction or danger to traffic or in any case of emergency—

Powers of police and parking inspectors in emergency. Amended by No. 113 of 1965, s. 8.

- (a) direct any person not to cause or permit a vehicle to stand in any parking station or metered space;
- (b) direct the owner or driver of a vehicle standing in a parking station or metered space to remove the vehicle from that station or space; and
- (c) where no person appears to be in immediate charge of a vehicle so standing, himself remove the vehicle from the station or space.

(2) A person who disobeys or fails to comply with a direction made pursuant to this section commits an offence.

Penalty: A fine of one hundred dollars.

19. (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").

Duty of owner to identify driver of vehicle. Amended by No. 65 of 1976, s. 14.

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.

(4) The driver or person in charge of a vehicle shall, upon being required by a member of the Police Force or an inspector who alleges that the driver or person has committed an offence against this Act, furnish the member or inspector, as the case may be, with his full name and address.

Penalty: A fine of twenty dollars.

Owner of
vehicle may
be deemed to
be offender.
Inserted by
No. 65 of
1976, s. 15.

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.

PART IV.—REGULATIONS AND BY-LAWS.

20. The Governor may make regulations—

*Regulations.
Amended by
No. 65 of
1976, s. 16.*

- (a) constituting and defining any part of the municipal district of the City of Perth as a parking region;
- (b) extending a parking region so constituted;
- (c) reconstituting a parking region with altered boundaries;
- (d) excluding any specified road or specified portion of a road from a parking region;
- (e) declaring any specified portion of the municipal district of the City of Perth to be included in the central business district.

21. (1) The Council may, with the approval of the Minister make by-laws—

*By-laws.
Amended by
No. 113 of
1965, s. 8;
No. 73 of
1970, s. 3;
No. 65 of
1976, s. 17;
No. 20 of
1981, s. 6.*

- (a) with respect to the control and management of parking stations established by the Council under this Act and the management and operation of parking facilities provided by the Council under this Act;

- (b) prescribing charges payable by any person using, or in respect of any vehicle occupying, a parking station or parking facility so established or provided and exempting any person or vehicle or class of person or class of vehicle from paying all or any of those charges;
- (c) prescribing conditions under which and the period or periods of time during which a parking station or parking facility may be used or occupied;
- (d) providing for the protection of parking stations and parking facilities and all equipment pertaining to them against misuse, damage, interference or attempted interference by any person;
- (e) regulating the parking and standing of vehicles in any parking station and prohibiting any person from parking or standing any vehicle in a parking station otherwise than in accordance with the by-laws;
- (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;
- (f) with respect to the control and management of metered zones and metered spaces and the operation of parking meters provided by the Council;
- (g) prescribing charges payable by any person using, or in respect of any vehicle occupying, a metered zone or metered space and exempting any person or vehicle or class of person or class of vehicle from paying all or any of those charges;

- (h) prescribing conditions under which and the period or periods of time during which vehicles may be left in metered zones or metered spaces and the manner in which, and the time or times at which the driver of a vehicle shall insert the prescribed coin or coins in a parking meter;
- (i) providing for the protection of parking meters, metered zones and metered spaces against misuse, damage, interference or attempted interference by any person, and for the protection of parking meters against the insertion, or attempted insertion therein of anything other than the prescribed coin or coins;
- (j) regulating the parking and standing of vehicles in a metered zone or metered space and prohibiting any person from parking or standing a vehicle in a metered zone or metered space otherwise than in accordance with the by-laws;
- (k) prohibiting or restricting the parking or standing of vehicles or of vehicles of a specified class or of specified classes in all roads or specified roads or in specified parts of roads within a parking region at all times or at specified times;
- (ka) prohibiting the parking or standing of vehicles on land which is not a road or a parking facility, without the consent of the owner or person in occupation of the land;
- (l) prescribing the method and the means by which any charges or penalties prescribed by any by-law may or shall be paid and collected, or recovered;
- (m) prescribing the period of time within which a person, after being served with notice of an offence alleged to be committed by him

City of Perth Parking Facilities.

may or shall pay to the Council the penalty or modified penalty prescribed for that offence, and the period within which a penalty is payable after receipt of notice;

- (n) prescribing the method of notifying a person alleged to have committed an offence against the by-laws of that alleged offence and how it may or shall be dealt with and prohibiting the removal by any person other than the driver of a vehicle in respect of which an offence against the by-laws is alleged to have been committed of any notice relating to the offence affixed to the vehicle or left in or on the vehicle by a person duly authorized by the Council;
- (o) exempting any person or vehicle or class of person or class of vehicle from complying with any by-law prohibiting or restricting the parking or standing of vehicles generally or otherwise;
- (p) with respect to the provision, management and operation of any omnibus or other transport service approved by the Minister for the purpose of conveying persons and their luggage between a parking station or parking facility and any central place within the district, prescribing the charges for such service, such charges being either inclusive of or additional to the charges referred to in paragraph (b) of this subsection;
- (q) prescribing forms for use under this Act;
- (r) defining the circumstances under which a vehicle which is causing obstruction to traffic or a vehicle trespassing on privately owned land within a parking region may be removed to a specified place by an inspector, a member of the Police Force or a person duly authorized by the Council; providing

that an inspector, a member of the Police Force or person so authorized may use such force as is necessary to enter the vehicle for the purpose of so removing it and prescribing a scale of charges to be paid by the owner or person in charge of the vehicle in order to recover the vehicle from that place; and authorizing the Council to hold the vehicle until the prescribed charges are paid;

- (s) with respect to the control and regulation of persons employed in the management and operation of parking stations, and parking facilities, established or provided under this Act and providing for persons so employed to be duly licensed or authorized by the Council to perform the duties for which they are employed;
- (t) imposing a penalty not exceeding two hundred dollars for the breach of any by-law and prescribing a scale of penalties for first and subsequent offences against the by-laws increasing in severity for each successive offence by the same offender;
- (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;

- (v) prescribing all matters which by this Act are required or permitted to be prescribed by by-law or which may be necessary or convenient to be prescribed for giving effect to the objects and purposes of this Act.

(2) A by-law shall be valid notwithstanding that it confers upon a specified person or body or class of person or body a discretionary authority.

(3) (a) The Minister may request the Council, within a period specified by the Minister, to make a by-law in such terms, or to such effect, or for such purpose, as is specified by the Minister.

(b) Where the Council refuses or, within the period so specified, fails to make the by-law, the Minister may make the by-law.

(c) A by-law made by the Minister under this subsection has effect as if it were a by-law made by the Council under this section.

(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 authorized to make under subsection (1) of this section.

(4) A by-law shall not have any force or effect unless it is confirmed by the Governor.

PART V.—MISCELLANEOUS.

Proceedings
may be
brought in
Court of
Petty
Sessions,

22. Proceedings against any person alleged to have committed an offence against this Act may be instituted and carried on in a Court of Petty Sessions in accordance with the provisions of the Justices Act 1902, and the court before whom a

person is convicted of an offence against this Act may, in addition to any penalty that may be inflicted on him for that offence, order him to pay the amount of any charge prescribed under this Act, which is proved to have been incurred by him at the time of the commission of the offence and not been paid, and that amount may be recovered in the same manner as moneys ordered to be paid by that court upon a conviction for a simple offence: But where any method, manner or time is prescribed by or within which any specified penalty may be paid by a person incurring the penalty, payment of that penalty in accordance with that method or manner and within that time is a good defence to a charge of the offence in respect of which that penalty was paid.

23. (1) In a prosecution or legal proceeding under the provisions of this Act instituted by or under the authority of the Council or by a member of the Police Force, no proof is required, until evidence is given to the contrary that—

Proof of
certain
matters.

- (a) a parking region was duly constituted, extended or reconstituted;
- (b) an inspector or officer of the Council was duly appointed;
- (c) an inspector or officer of the Council has or had authority to institute proceedings or exercise any function under this Act;
- (d) a parking station or parking facility was duly established or provided.

(2) The production of

- (a) a copy of the *Gazette* containing a regulation or by-law purporting to have been made under the provisions of this Act; or
- (b) a copy purporting to be a true copy of a regulation or by-law so made, certified as such under the hand of the Town Clerk of the Council

is evidence until the contrary is proved of the due making, existence, approval and confirmation as the case may be, of the regulation or by-law and of the regularity of all preliminary steps necessary to give full force and effect to the same.

Protection
of Minister,
Council and
officers.

24. No matter or thing done or omitted by the Minister or the Council or any person acting with the authority of the Minister or Council or by any member of the Police Force or an inspector in good faith in the course of the exercise or discharge or the purported exercise or discharge of the powers, duties or obligations conferred or imposed under this Act shall render the Crown or the Minister, Council, person, member of the Police Force, or inspector, as the case may be, subject to any liability in respect of that matter or thing.

Owner of
vehicle to be
compensated
for damage
caused to
vehicle in
course of
removal.

24A. (1) Notwithstanding the provisions of section twenty-four of this Act, where

- (a) damage is caused to a vehicle in the course of being removed by a member of the Police Force, an inspector, or a person duly authorized by the Council, pursuant to a by-law made in exercise of a power conferred by paragraph (r) of subsection (1) of section twenty-one of this Act, and
- (b) the whole or a part of the damage so caused is not recoverable by the owner of the vehicle from an insurer under a policy of insurance or from any other person liable in law to make good to the owner the value of the damage,

the Council shall compensate the owner out of the fund to such extent as is agreed between the Council and the owner, or if there is no agreement, as is determined on a reference to arbitration under the Arbitration Act 1895.

(2) Where there is no agreement between the Council and the owner of the vehicle on any other matter or question referred to in, or arising from the provisions of subsection (1) of this section, that matter or question may at the same time be determined on a reference to arbitration, under the Arbitration Act 1895.

[25. *Repealed by No. 65 of 1976, s. 18.*]

SCHEDULE.

Substituted
by No. 65 of
1976, s. 19.

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
PERTH 2000 12.26
PERTH 2000 13.26