



Western Australia

Perth Parking Management Act 2024

Perth Parking Management Act 2024

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Defined terms



Western Australia

Perth Parking Management Act 2024

No. 2 of 2024

An Act —

- to provide for licensing and authorising of parking spaces in the parking management area in the metropolitan region to manage parking; and
- to provide that licence fees and other revenue under this Act may be used to improve transport, accessibility, economic activity or urban amenity for the benefit of the parking management area; and
- to repeal the *Perth Parking Management Act 1999*, the *Perth Parking Management (Taxing) Act 1999* and the *Perth Parking Management Regulations 1999*; and
- to make a consequential amendment to the *Sentencing Act 1995*; and
- for related purposes.

[Assented to 7 March 2024]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Perth Parking Management Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 (other than sections 3 to 10) — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) section 188 and Part 12 — on the day after assent day;
- (c) the rest of the Act — on a day fixed by proclamation.

3. Objects of Act

The objects of this Act are —

- (a) to provide for licensing and authorising of parking spaces in the PM area in the metropolitan region to manage parking, including for 1 or more of the following —
 - (i) to mitigate traffic congestion;
 - (ii) to promote a sustainable balance between different modes of transport;
 - (iii) to improve accessibility, economic activity or urban amenity;
- and
- (b) to provide that licence fees and other revenue may be used for the benefit of the PM area to improve transport, accessibility, economic activity or urban amenity.

4. Terms used

In this Act —

advertise, that parking for a relevant vehicle is available, includes to authorise or permit the promotion, publication or

broadcast of an advertisement or other indication that the parking is available;

Example for this definition:

A sign near a parking space that indicates parking is available for a relevant vehicle.

agency has the meaning given in the *Public Sector Management Act 1994* section 3(1);

applicant means —

- (a) in relation to an application for a parking space licence under section 21 — each person who authorised the application under section 21(2)(g); or
- (b) in relation to an application for a pre-authorisation under section 28 — each person who made the application; or
- (c) in relation to an application for a special purpose authorisation under section 33 — each person who authorised the application under section 33(2)(f); or
- (d) in relation to an application to vary a parking space licence under section 42 — each person who authorised the application under section 42(2)(e); or
- (e) in relation to an application to vary a pre-authorisation under section 47 — each person who authorised the application under section 47(2)(d); or
- (f) in relation to an application to vary a special purpose authorisation under section 51 — each person who authorised the application under section 51(2)(e); or
- (g) in relation to an application to transfer a parking space licence under section 56 — each person who authorised the application under section 56(2)(d); or
- (h) in any other case — the person who made the application;

approval holder means —

- (a) in relation to a parking space licence — the licence holder for the parking space licence; or

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- (b) in relation to a special purpose authorisation — the authorisation holder for the special purpose authorisation;

approved form means a form approved under section 155(1);

authorisation holder, in relation to a special purpose authorisation, means the person to whom the special purpose authorisation is granted;

authorised officer means a person designated under section 78(1);

business day means a day that is not a Saturday, Sunday or public holiday;

category, of parking space, has the meaning giving in section 8;

CEO means the chief executive officer of the Department;

Department means the department of the Public Service principally assisting in the administration of this Act;

development approval —

- (a) means —
 - (i) an approval under the *Planning and Development Act 2005* for the development of land; or
 - (ii) a prescribed approval, authorisation, consent or permission, under any written law, for the development of land;

or

- (b) has the meaning given in the *Metropolitan Redevelopment Authority Act 2011* section 3;

exempt circumstances has the meaning given in section 9(2);

infringement notice means a notice referred to in section 122 in relation to an alleged offence under this Act;

licence fees means —

- (a) in relation to a proposed parking space licence — any fees payable for the licence if the licence is granted; or

- (b) in relation to a parking space licence as varied — any fees payable for the licence if the licence is varied; or
- (c) in relation to a renewal of a parking space licence — any fees payable for the licence if the licence is renewed; or
- (d) in relation to a transfer of a parking space licence — any fees payable for the licence if the licence is transferred; or
- (e) in any other case — any fees payable for the parking space licence;

licence holder, in relation to a parking space licence, means —

- (a) the person to whom the licence is granted; or
- (b) if the licence is transferred under section 57(2) — the person to whom the licence is transferred;

licence period, in relation to a parking space licence, means the period under section 26 or 40 for which the licence is granted or renewed;

manage includes to regulate and prohibit;

metropolitan region has the meaning given in the *Planning and Development Act 2005* section 4(1);

owner, in relation to land, has the meaning given in section 5(2);

parking management area (PM area) has the meaning given in section 6(1);

parking management plan, in relation to land, means a plan in relation to parking spaces or managing parking on the land that complies with prescribed requirements;

parking policy has the meaning given in section 129(2);

parking space has the meaning given in section 7(2);

parking space approval means any of the following —

- (a) a parking space licence;
- (b) a special purpose authorisation;

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parking space licence means a licence granted under section 22, 23 or 24(6);

parking space register has the meaning given in section 73(1);

PM Area Account has the meaning given in section 126(1);

pre-authorisation, for 1 or more parking spaces, means a pre-authorisation granted under section 29(5) for the parking spaces;

pre-authorisation holder, in relation to a pre-authorisation, means the person to whom the pre-authorisation is granted;

relevant approval holder means —

- (a) in relation to a parking space approval with more than 1 approval holder — 1 of the approval holders; or
- (b) in relation to a parking space approval with 1 approval holder — the approval holder;

relevant licence holder means —

- (a) in relation to a parking space licence with more than 1 licence holder — 1 of the licence holders; or
- (b) in relation to a parking space licence with 1 licence holder — the licence holder;

relevant owner means —

- (a) in relation to land owned by more than 1 owner — 1 of the owners; or
- (b) in relation to land owned by 1 owner — the owner;

relevant pre-authorisation holder means —

- (a) in relation to a pre-authorisation with more than 1 pre-authorisation holder — 1 of the pre-authorisation holders; or
- (b) in relation to a pre-authorisation with 1 pre-authorisation holder — the pre-authorisation holder;

relevant vehicle —

- (a) means any of the following —
 - (i) a vehicle for which a vehicle licence is required under the *Road Traffic (Vehicles) Act 2012* section 4(1);
 - (ii) a caravan, trailer or semi-trailer (whether or not the caravan, trailer or semi-trailer is connected to a vehicle referred to in subparagraph (i));

but

- (b) does not include a prescribed vehicle;

responsible occupier, in relation to land —

- (a) means a person (other than an owner of the land) who is in occupation or control of the land or is entitled to be in occupation or control of the land; and
- (b) includes a lessee of the land;

reviewable decision has the meaning given in section 76;

special event means a temporary disruption or planned outage of public transport, or a planned event or attraction, that may create more demand for parking spaces in a location;

special purpose, in relation to parking, means any of the following purposes for parking —

- (a) a special event;
- (b) a prescribed purpose;

Example for this definition:

For the purposes of paragraph (b) — building, construction or demolition works.

special purpose authorisation means an authorisation granted under section 34(2);

unapproved parking space means a parking space for which there is no parking space approval in force;

vehicle has the meaning given in the *Road Traffic (Administration) Act 2008* section 4.

5. Owner

(1) In this section —

administrator, acting on behalf of a person, includes any of the following appointed to act on behalf of the person under a law in force in the State, another State, a Territory or the Commonwealth —

- (a) an attorney under a power of attorney or enduring power of attorney;
- (b) an executor;
- (c) a liquidator;
- (d) a receiver;
- (e) a receiver and manager;
- (f) a trustee in bankruptcy;

common property —

- (a) in a community titles scheme — has the meaning given in the *Community Titles Act 2018* section 3(1); or
- (b) in a strata titles scheme — has the meaning given in the *Strata Titles Act 1985* section 10;

community corporation has the meaning given in the *Community Titles Act 2018* section 3(1);

community titles scheme has the meaning given in the *Community Titles Act 2018* section 3(1);

Crown land has the meaning given in the *Land Administration Act 1997* section 3(1);

freehold scheme has the meaning given in the *Strata Titles Act 1985* section 8(2);

leasehold scheme has the meaning given in the *Strata Titles Act 1985* section 8(3);

lot, in a community titles scheme, has the meaning given in the *Community Titles Act 2018* section 3(1);

lot in a strata scheme has the meaning given in the *Strata Titles Act 1985* section 3(1);

lot in a survey-strata scheme has the meaning given in the *Strata Titles Act 1985* section 3(1);

public authority —

(a) means any of the following —

- (i) a Minister of the State;
- (ii) the chief executive officer of an agency;
- (iii) a local government, regional local government or regional subsidiary;
- (iv) a body, whether incorporated or not, or the holder of an office, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State;
- (v) a prescribed person or body with a function in relation to Crown land;

but

(b) does not include a prescribed person or body;

strata company has the meaning given in the *Strata Titles Act 1985* section 3(1);

strata titles scheme has the meaning given in the *Strata Titles Act 1985* section 3(1).

(2) An ***owner***, in relation to land, means —

- (a) if the land is common property, or a lot, in a community titles scheme and —
 - (i) an administrator has been appointed under the *Community Titles Act 2018* section 165(2)(q) for the community corporation for that scheme in relation to a function of managing parking — the administrator; or

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- (ii) in any other case — the community corporation for that scheme;

or

- (b) if the land is common property in a strata scheme, or a lot in a strata scheme (whether or not the scheme is a leasehold scheme or freehold scheme) and —

- (i) an administrator has been appointed under the *Strata Titles Act 1985* section 200(2)(q) for the strata company for that scheme in relation to a function of managing parking — the administrator; or

- (ii) in any other case — the strata company for that scheme;

or

- (c) if the land is common property in a survey-strata scheme, or a lot in a survey-strata scheme (whether or not the scheme is a leasehold scheme or freehold scheme) and —

- (i) if an administrator has been appointed under the *Strata Titles Act 1985* section 200(2)(q) for the strata company for that scheme in relation to a function of managing parking — the administrator; or

- (ii) in any other case — the strata company for that scheme;

or

- (d) if the land is Crown land and a person or body is entitled to the land under a lease or licence from the Crown with or without the right of acquiring the fee simple — the person or body entitled to the land under the lease or licence; or

- (e) if the land is Crown land other than land referred to in paragraph (d) — the public authority that has the care, control or management of the land or, if there is no such public authority, the State; or
- (f) in any other case —
 - (i) if the land is an estate in fee simple under the *Transfer of Land Act 1893* and subparagraphs (iii) and (iv) do not apply — the person who is registered under that Act as proprietor of the estate; or
 - (ii) if the land is freehold land under the *Registration of Deeds Act 1856* and subparagraphs (iii) and (iv) do not apply — the person who is the holder of the freehold in the land as evidenced by a memorial that is registered under that Act; or
 - (iii) if a mortgagee is in possession of the land — the mortgagee; or
 - (iv) if an administrator is acting on behalf of a person referred to in subparagraph (i) or (ii) in relation to the land and subparagraph (iii) does not apply — the administrator.

6. Parking management area (PM area)

- (1) An area may be prescribed the *parking management area (PM area)* if —
 - (a) the area is in the metropolitan region; and
 - (b) at least part of the area has, or is capable of having, 1 or more parking spaces.
- (2) Without limiting subsection (1), an area may be prescribed whether or not —
 - (a) the area is the whole or part of 1 or more local government districts; or

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- (b) part of the area is water; or
- (c) all parking spaces in the area are to be managed under this Act.

7. Parking space

- (1) In this section —

private road and *road* have the meanings given in the *Land Administration Act 1997* section 3(1).

- (2) A *parking space* —

- (a) is an area —

- (i) set aside for parking of a relevant vehicle, whether or not the area is used for parking of a relevant vehicle and whether or not the area is marked for this purpose; or
- (ii) used for parking of a relevant vehicle, whether or not the area is marked for this purpose;

and

- (b) includes an area referred to in paragraph (a)(i) and (ii) that is on a private road or road.

8. Category

Any of the following is a *category* of parking space —

- (a) a parking space in a prescribed location;
- (b) a parking space of a prescribed type;
- (c) a parking space used, or set aside for use, in prescribed circumstances;
- (d) a parking space that is a prescribed combination of any of the categories referred to in paragraphs (a), (b) and (c).

9. Exempt circumstances

- (1) In this section —

relevant accommodation means —

- (a) a hotel or motel; or
- (b) prescribed short-term, temporary or specialised residential accommodation;

Example for this definition:

For the purposes of paragraph (b) — serviced apartments, boarding houses.

residential building —

- (a) means a dwelling; but
- (b) does not include relevant accommodation;

residential land —

- (a) means land on which there is a dwelling; but
- (b) does not include land on which there is relevant accommodation.

- (2) A relevant vehicle is parked in **exempt circumstances** if the relevant vehicle is —

- (a) parked in a parking space on solely residential land or in a solely residential building; or
- (b) parked in prescribed circumstances.

Examples for this subsection:

For the purposes of paragraph (b) —

- (a) a relevant vehicle parked in a particular location or at certain times of the day;
- (b) a relevant vehicle parked for the purposes of building, construction or demolition works;
- (c) a relevant vehicle parked on residential land or in a residential building where the land or building is partly used for commercial purposes or other purposes.

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10. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Managing parking in PM area

Division 1 — Owners of land require parking space approvals for parking spaces

11. Owners of land must not permit parking in unapproved parking spaces

A person commits an offence if —

- (a) the person is an owner of land in the PM area; and
- (b) a relevant vehicle is parked in an unapproved parking space on the land other than in exempt circumstances; and
- (c) the person permits the relevant vehicle to be parked in the unapproved parking space.

Penalty:

- (a) if the offence involves 5 or fewer relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$30 000;
- (b) if the offence involves more than 5, but fewer than 15, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$50 000;
- (c) if the offence involves 15 or more, but fewer than 50, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$80 000;
- (d) if the offence involves 50 or more, but fewer than 100, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$150 000;
- (e) if the offence involves 100 or more, but fewer than 200, relevant vehicles parked in unapproved

parking spaces on the land at any one time — a fine of \$200 000;

(f) in any other case — a fine of \$250 000.

Daily penalty: a fine of \$2 000 for each day or part of a day during which the offence continues.

12. Owners of land must not advertise parking without parking space approvals

A person commits an offence if —

- (a) the person is an owner of land in the PM area; and
- (b) a parking space approval is not in force for a parking space on the land; and
- (c) the person advertises that parking for a relevant vehicle is available on the land other than parking for a relevant vehicle in exempt circumstances.

Penalty: a fine of \$20 000.

Daily penalty: a fine of \$2 000 for each day or part of a day during which the offence continues.

Division 2 — Owners of land must comply with parking space approvals

13. Owners of land must not advertise parking except in accordance with parking space approvals

A person commits an offence if —

- (a) the person is an owner of land in the PM area; and
- (b) a parking space approval is in force for a parking space on the land; and
- (c) the person advertises that parking for a relevant vehicle is available on the land other than parking for a relevant vehicle in exempt circumstances; and

- (d) the parking space approval does not permit the relevant vehicle to be parked on the land as advertised.

Penalty: a fine of \$20 000.

Daily penalty: a fine of \$2 000 for each day or part of a day during which the offence continues.

14. Owners of land must ensure compliance with conditions of parking space approvals

A person commits an offence if —

- (a) the person is an owner of land in the PM area; and
- (b) a parking space approval is in force for a parking space on the land; and
- (c) a relevant vehicle is parked in the parking space other than in exempt circumstances; and
- (d) the person permits the relevant vehicle to be parked in the parking space; and
- (e) a condition of the parking space approval is not complied with.

Penalty:

- (a) if the offence involves 5 or fewer relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$30 000;
- (b) if the offence involves more than 5, but fewer than 15, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$50 000;
- (c) if the offence involves 15 or more, but fewer than 50, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$80 000;
- (d) if the offence involves 50 or more, but fewer than 100, relevant vehicles parked on the land at any

one time in non-compliance with a condition of the parking space approval — a fine of \$150 000;

- (e) if the offence involves 100 or more, but fewer than 200, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$200 000;
- (f) in any other case — a fine of \$250 000.

Daily penalty: a fine of \$2 000 for each day or part of a day during which the offence continues.

Division 3 — Responsible occupiers require parking space approvals for parking spaces

15. Responsible occupiers must not permit parking in unapproved parking spaces

- (1) A person commits an offence if —
 - (a) the person is a responsible occupier of land in the PM area; and
 - (b) a relevant vehicle is parked in an unapproved parking space on the land other than in exempt circumstances; and
 - (c) the person permits the relevant vehicle to be parked in the unapproved parking space.

Penalty for this subsection:

- (a) if the offence involves 5 or fewer relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$30 000;
- (b) if the offence involves more than 5, but fewer than 15, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$50 000;
- (c) if the offence involves 15 or more, but fewer than 50, relevant vehicles parked in unapproved parking

spaces on the land at any one time — a fine of \$80 000;

- (d) if the offence involves 50 or more, but fewer than 100, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$150 000;
- (e) if the offence involves 100 or more, but fewer than 200, relevant vehicles parked in unapproved parking spaces on the land at any one time — a fine of \$200 000;
- (f) in any other case — a fine of \$250 000.

Daily penalty for this subsection: a fine of \$2 000 for each day or part of a day during which the offence continues.

- (2) It is a defence to a charge for an offence against subsection (1) for the person charged to prove that the person honestly and reasonably believed that a parking space approval was in force for the unapproved parking space on the land at the time of the alleged offence.
- (3) For the purposes of subsection (2), in the absence of evidence to the contrary a person is taken to honestly and reasonably believe that a parking space approval is in force for the unapproved parking space if the person —
 - (a) requests this information under section 134(2) from the CEO; and
 - (b) is given the information under section 134(3) within 12 months before the day on which the parking of the relevant vehicle in the unapproved parking space occurs.

16. Responsible occupiers must not advertise parking on land without parking space approvals

- (1) A person commits an offence if —
 - (a) the person is a responsible occupier of land in the PM area; and

- (b) the person advertises that parking for a relevant vehicle is available on the land other than parking for a relevant vehicle in exempt circumstances; and
- (c) there is no parking space approval in force for a parking space on the land.

Penalty for this subsection: a fine of \$20 000.

Daily penalty for this subsection: a fine of \$2 000 for each day or part of a day during which the offence continues.

- (2) It is a defence to a charge for an offence against subsection (1) for the person charged to prove that the person honestly and reasonably believed that a parking space approval was in force for a parking space on the land at the time of the alleged offence.
- (3) For the purposes of subsection (2), in the absence of evidence to the contrary a person is taken to honestly and reasonably believe that a parking space approval is in force if the person —
 - (a) requests this information under section 134(2) from the CEO; and
 - (b) is given the information under section 134(3) within 12 months before the day on which the advertising occurs.

Division 4 — Responsible occupiers must comply with parking space approvals

17. Responsible occupiers must not advertise parking on land except in accordance with parking space approvals

- (1) A person commits an offence if —
 - (a) the person is a responsible occupier of land in the PM area; and
 - (b) a parking space approval is in force for a parking space on the land; and

- (c) the person advertises that parking for a relevant vehicle is available on the land other than parking for a relevant vehicle in exempt circumstances; and
- (d) the parking space approval does not permit the relevant vehicle to be parked on the land as advertised.

Penalty for this subsection: a fine of \$20 000.

Daily penalty for this subsection: a fine of \$2 000 for each day or part of a day during which the offence continues.

- (2) It is a defence to a charge for an offence against subsection (1) for the person charged to prove that the person honestly and reasonably believed that the parking space approval for the land permitted the relevant vehicle to be parked on the land as advertised at the time of the alleged offence.
- (3) For the purposes of subsection (2), in the absence of evidence to the contrary a person is taken to honestly and reasonably believe that the parking space approval for the land permitted the relevant vehicle to be parked on the land as advertised if the person —
 - (a) requests this information under section 134(2) from the CEO; and
 - (b) is given the information under section 134(3) within 12 months before the day on which the advertising occurs.

18. Responsible occupiers must ensure compliance with conditions of parking space approvals

- (1) A person commits an offence if —
 - (a) the person is a responsible occupier of land in the PM area; and
 - (b) a parking space approval is in force for a parking space on the land; and
 - (c) a relevant vehicle is parked in the parking space other than in exempt circumstances; and

- (d) the person permits the relevant vehicle to be parked in the parking space; and
- (e) a condition of the parking space approval is not complied with.

Penalty for this subsection:

- (a) if the offence involves 5 or fewer relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$30 000;
- (b) if the offence involves more than 5, but fewer than 15, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$50 000;
- (c) if the offence involves 15 or more, but fewer than 50, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$80 000;
- (d) if the offence involves 50 or more, but fewer than 100, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$150 000;
- (e) if the offence involves 100 or more, but fewer than 200, relevant vehicles parked on the land at any one time in non-compliance with a condition of the parking space approval — a fine of \$200 000;
- (f) in any other case — a fine of \$250 000.

Daily penalty for this subsection: a fine of \$2 000 for each day or part of a day during which the offence continues.

- (2) It is a defence to a charge for an offence against subsection (1) for the person charged to prove that the person honestly and reasonably believed that the person was complying with the condition of the parking space approval for the land at the time of the alleged offence.

- (3) For the purposes of subsection (2), in the absence of evidence to the contrary a person is taken to honestly and reasonably believe that the person was complying with the condition of the parking space approval for the land if the person —
- (a) requests this information under section 134(2) from the CEO; and
 - (b) is given the information under section 134(3) within 12 months before the day on which the relevant failure to comply occurs.

Part 3 — Parking space approvals and pre-authorisations

Division 1 — Application of Part

19. Application of Part when land has more than 1 owner

A requirement (other than a requirement under section 33(2)(f) or 51(2)(e)) that applies under this Part to an owner of land applies to each owner of the land.

20. Application of Part when parking space approvals or pre-authorisations are held by more than 1 person

- (1) A requirement that applies under this Part to an approval holder of a parking space approval applies to each approval holder of the parking space approval.
- (2) A requirement that applies under this Part to a pre-authorisation holder of a pre-authorisation applies to each pre-authorisation holder of the pre-authorisation.

Division 2 — Applications for and grants of parking space licences

21. Applications for parking space licences

- (1) An owner of land in the PM area may apply to the CEO for a grant of a parking space licence for 1 or more parking spaces on the land.
- (2) An application must —
 - (a) be in an approved form; and
 - (b) if there is a pre-authorisation for 1 or more parking spaces at a place on the land — include a copy of the pre-authorisation; and
 - (c) if there is a legal description available for the land available — include the legal description; and

- (d) be accompanied by a parking management plan for the land; and
 - (e) be accompanied by any prescribed information; and
 - (f) be accompanied by any prescribed application fee; and
 - (g) be authorised by the owner of the land.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.
- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

22. Grants of parking space licences without approval from Minister

- (1) This section applies if —
 - (a) an owner of land in the PM area makes an application under section 21; and
 - (b) a pre-authorisation is not in force in relation to a place on the land.
- (2) The CEO may grant a parking space licence to the owner for 1 or more parking spaces on the land if satisfied that —
 - (a) the proposed licence, including any conditions, is consistent with the parking policy; and

- (b) if a development approval is required in relation to 1 or more parking spaces on the land that are proposed to be licensed —
 - (i) the development approval is granted; and
 - (ii) the number of parking spaces, or the number of parking spaces of a specified category, under the proposed licence is not greater than allowed under the development approval; and
 - (iii) the development approval has been complied with in relation to parking;and
 - (c) if a relevant owner has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c) — the relevant owner will not —
 - (i) fail to comply with a requirement under this Act in relation to the proposed licence; and
 - (ii) fail to comply with any condition of the proposed licence;and
 - (d) any licence fees for the proposed licence have been paid.
- (3) Despite any development approval referred to in subsection (2)(b), the CEO may grant fewer parking spaces, or fewer parking spaces of a specified category, under a parking space licence than the maximum allowable under the development approval.
- (4) If a development approval is required in relation to 1 or more parking spaces on the land that are proposed to be licensed, the parking policy referred to in subsection (2)(a) is the policy in force on the day on which the latest development approval is granted.

23. Grants of parking space licences with pre-authorisation

- (1) This section applies if —
- (a) an owner of land in the PM area makes an application under section 21; and
 - (b) a pre-authorisation is in force in relation to a place on the land.
- (2) The CEO must grant a parking space licence to the owner for 1 or more parking spaces on the land if satisfied that —
- (a) the proposed licence, including any conditions, is in accordance with the pre-authorisation; and
 - (b) if a development approval is required in relation to 1 or more parking spaces on the land that are proposed to be licensed —
 - (i) the development approval is granted; and
 - (ii) the number of parking spaces, or the number of parking spaces of a specified category, under the proposed licence is not greater than allowed under the development approval; and
 - (iii) the development approval has been complied with in relation to parking;
- and
- (c) any conditions of the pre-authorisation have been complied with; and
 - (d) if a relevant owner has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c) — the relevant owner will not —
 - (i) fail to comply with a requirement under this Act in relation to the proposed licence; and
 - (ii) fail to comply with any condition of the proposed licence;
- and

- (e) any licence fees for the proposed licence have been paid.
- (3) Despite any development approval referred in subsection (2)(b), the CEO may grant fewer parking spaces, or fewer parking spaces of a specified category, under a parking space licence than the maximum allowable under the development approval.

24. Grants of parking space licences with approval from Minister

- (1) This section applies if —
 - (a) an owner of land in the PM area makes an application under section 21 for a grant of a parking space licence; and
 - (b) the CEO refuses to grant the licence under section 22 or 23; and
 - (c) the owner gives written notice to the CEO for the application to be considered under this section.
- (2) The CEO must refer the application to the Minister to approve a grant of a parking space licence to the owner for 1 or more parking spaces on the land if the CEO considers that the application is suitable for referral having regard to each of the following —
 - (a) whether the number of parking spaces, or the number of parking spaces of a specified category, under the proposed licence is appropriate in the circumstances;
 - (b) the impact that parking of relevant vehicles in the parking spaces in accordance with the proposed licence, and traffic flow of the relevant vehicles to and from the parking spaces, would be likely to have on —
 - (i) environmental sustainability; and
 - (ii) economic activity and urban amenity in the PM area; and
 - (iii) pedestrian and cycle traffic in the PM area; and

- (iv) traffic flow and the transport network in the PM area; and
 - (v) the operation of public transport in the PM area;
 - (c) the availability of public transport near the land;
 - (d) whether infrastructure, facilities or services are to be provided on or near the land to improve transport, accessibility, environmental sustainability or urban amenity for the benefit of the occupants of the land or the public;
 - (e) whether a relevant owner of the land has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c);
 - (f) any other relevant matter.
- (3) The Minister may, on referral under subsection (2), approve a grant of a parking space licence to the owner for 1 or more parking spaces on the land if the Minister is satisfied the grant is reasonable having regard to each of the matters referred to in subsection (2)(a) to (f).
- (4) If a development approval is required in relation to 1 or more parking spaces on the land, the CEO must not refer an application in relation to the land under subsection (2), and the Minister must not give approval under subsection (3), unless satisfied that —
- (a) the development approval is granted; and
 - (b) the number of parking spaces, or the number of parking spaces of a specified category, proposed to be licensed is not greater than allowed under the development approval; and
 - (c) the development approval has been complied with in relation to parking.
- (5) Despite any development approval referred to in subsection (4), the Minister may approve the grant of fewer parking spaces, or

fewer parking spaces of a specified category, under a parking space licence than the maximum allowable under the development approval.

- (6) The CEO must grant a parking space licence if —
- (a) the Minister approves the grant of the licence under subsection (3); and
 - (b) any licence fees for the proposed licence have been paid.

25. Conditions of parking space licences

- (1) A parking space licence for 1 or more parking spaces on land for the parking of relevant vehicles is granted subject to each of the following conditions —
- (a) any prescribed conditions;
 - (b) any conditions —
 - (i) in relation to a licence granted under section 22 or 23 — imposed by the CEO under subsection (2); or
 - (ii) in relation to a licence granted under section 24(6) — approved by the Minister under subsection (3).
- (2) The CEO may impose conditions on a parking space licence in writing when the CEO grants the licence under section 22 or 23.
- (3) The Minister may approve conditions on a parking space licence in writing when the Minister approves the grant of the licence under section 24.
- (4) Without limiting subsection (1), (2) or (3), conditions may include 1 or more of the following —
- (a) the number of parking spaces of a specified category that may be used for the parking of relevant vehicles;
 - (b) the location of the parking spaces on the land;
 - (c) that each parking space is sufficiently marked;

- (d) the maximum number of relevant vehicles that may be parked —
 - (i) if each parking space is sufficiently marked — in each marked parking space; or
 - (ii) if each parking space is not sufficiently marked — in each parking space as indicated on the relevant parking management plan for the land;
 - (e) that the land must not be subdivided;
 - (f) the provision of infrastructure, facilities or services referred to in section 24(2)(d) on or near the land to improve transport, accessibility, environmental sustainability or urban amenity for the benefit of the occupants of the land or the public;
 - (g) that any pre-authorisation in force in relation to the land is cancelled.
- (5) A prescribed condition referred to in subsection (1)(a) imposed on an existing parking space licence cannot take effect earlier than the day on which the next renewal of the licence takes effect under section 40(1).

26. Duration of parking space licences

- (1) A parking space licence commences on the day on which it is granted, or a day specified in writing by the CEO when the CEO grants the licence, under section 22, 23 or 24(6).

Note for this subsection:

A parking space licence that commences on a day commences at the beginning of the day under section 152.

- (2) A day specified in writing referred to in subsection (1) may be earlier than the day on which the licence is granted or approved to be granted but no earlier than the day on which the application for the licence is made.

- (3) A parking space licence is granted for —
- (a) if a period is prescribed for the licence and the licence holder selects the period — the period selected; or
 - (b) if no period is prescribed for the licence or the licence holder does not select a prescribed period — the period agreed in writing by the CEO and the licence holder; or
 - (c) if paragraph (a) does not apply and no period is agreed under paragraph (b) — the period ending on 30 June in the financial year in which the licence is granted.
- (4) Subject to suspension under Division 10, a parking space licence remains in force until whichever of the following occurs first —
- (a) it expires;
 - (b) it is cancelled under Division 11.

Note for this subsection:

A parking space licence that expires or is cancelled on a day expires or is cancelled at the end of the day under section 153.

27. Information must be given for parking space licences

- (1) If the CEO grants a parking space licence, the CEO must give written notice to the licence holder that includes all of the following information —
- (a) the licence holder's name;
 - (b) if there is a legal description available for the land on which the parking spaces under the licence are located — the legal description;
 - (c) the location on the land of the parking spaces under the licence;
 - (d) any conditions to which the licence is subject under section 25(1)(b);
 - (e) the day on which the licence commences and the period for which the licence is granted;

- (f) any prescribed information.
- (2) If a parking space licence is subject to conditions under section 25(1)(b)(i), a written notice under subsection (1) must include a statement that the licence holder may have a right to apply for review under Part 4.

Note for this section:

If a parking space licence is refused to be approved or granted, a notice must be given under Division 13.

Division 3 — Applications for and grants of pre-authorisations

28. Applications for pre-authorisations

- (1) A person may apply to the CEO for a grant of a pre-authorisation for 1 or more proposed parking spaces in relation to a place on land in the PM area.
- (2) An application must —
 - (a) be in an approved form; and
 - (b) if there is a legal description available for the land — include the legal description; and
 - (c) if the land is proposed to be subdivided under a development approval — include a description of how the land is proposed to be subdivided; and
 - (d) if required by the CEO at the time of application — be accompanied by a parking management plan for the place on the land; and
 - (e) be accompanied by any prescribed information; and
 - (f) be accompanied by any prescribed application fee.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice (including a parking management plan if

not required under subsection (2)(d)) within the period (being not less than 15 business days) specified in the notice.

- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.
- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

29. Grants of pre-authorisations with approval from Minister

- (1) This section applies if a person makes an application under section 28 in relation to a place on land in the PM area.
- (2) The CEO must refer the application to the Minister to approve a grant of a pre-authorisation to the applicant in relation to 1 or more proposed parking spaces at the place on the land if the CEO considers that the application is suitable for referral having regard to each of the following —
 - (a) whether the number of parking spaces, or the number of parking spaces of a specified category, under the licence to be granted in accordance with the proposed pre-authorisation is appropriate in the circumstances;
 - (b) the impact that parking of relevant vehicles in the parking spaces under the parking space licence to be granted in accordance with the proposed pre-authorisation, and traffic flow of the relevant vehicles to and from the parking spaces, would be likely to have on —
 - (i) environmental sustainability; and
 - (ii) economic activity and urban amenity in the PM area; and

- (iii) pedestrian and cycle traffic in the PM area; and
 - (iv) traffic flow and the transport network in the PM area; and
 - (v) the operation of public transport in the PM area;
 - (c) the availability of public transport near the place;
 - (d) whether infrastructure, facilities or services are to be provided on or near the place to improve transport, accessibility, environmental sustainability or urban amenity for the benefit of the occupants at the place or the public;
 - (e) whether the applicant has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c);
 - (f) any other relevant matter.
- (3) The CEO must not refer under subsection (2) an application for a pre-authorisation if the number of parking spaces, or the number of parking spaces of a specified category, proposed to be licensed in accordance with the pre-authorisation is consistent with the parking policy.
- (4) The Minister may, on referral under subsection (2), approve a grant of a pre-authorisation to the applicant in relation to 1 or more proposed parking spaces at the place on the land if the Minister is satisfied the grant is reasonable having regard to each of the matters referred to in subsection (2)(a) to (f).
- (5) The CEO must grant a pre-authorisation if the Minister approves the grant of the pre-authorisation under subsection (4).

30. Conditions of pre-authorisations

- (1) A pre-authorisation for 1 or more proposed parking spaces at a place on land is granted subject to each of the following conditions —
 - (a) any prescribed conditions;
 - (b) any conditions approved by the Minister under subsection (2).
- (2) The Minister may approve conditions on a pre-authorisation in writing when the Minister approves the grant of the pre-authorisation under section 29(4).
- (3) Without limiting subsection (1) or (2), conditions may include 1 or more of the following —
 - (a) conditions that are to apply to a parking space licence granted under section 23 in accordance with the pre-authorisation;
 - (b) the provision of infrastructure, facilities or services referred to in section 29(2)(d) on or near the place on the land to improve transportation, accessibility, environmental sustainability or urban amenity for the benefit of occupants at the place or the public;
 - (c) if a development approval is required in relation to parking at the place —
 - (i) the development approval is to be granted and complied with in relation to parking; and
 - (ii) the number of parking spaces, or the number of parking spaces of a specified category, proposed to be licensed in accordance with the pre-authorisation is not greater than allowed under the development approval.

31. Duration of pre-authorisations

- (1) A pre-authorisation commences on the day on which it is granted or a later day specified in writing by the Minister when the Minister approves the grant of the pre-authorisation under section 29(4).

Note for this subsection:

A pre-authorisation that commences on a day commences at the beginning of the day under section 152.

- (2) A pre-authorisation is granted for a period specified in writing by the Minister when the Minister approves the grant of the pre-authorisation under section 29(4).
- (3) A pre-authorisation remains in force until whichever of the following occurs first —
- (a) it expires;
 - (b) it is cancelled under Division 11.

Note for this subsection:

A pre-authorisation that expires or is cancelled on a day expires or is cancelled at the end of the day under section 153.

- (4) The CEO may extend the period specified under subsection (2) by written notice given to the pre-authorisation holder if satisfied that —
- (a) the period for completing a relevant development approval has been extended; or
 - (b) there are exceptional circumstances that warrant the extension.

32. Information must be given for pre-authorisations

If the CEO grants a pre-authorisation, the CEO must give written notice to the pre-authorisation holder that includes all of the following information —

- (a) the pre-authorisation holder's name;

- (b) if there is a legal description available for the land on which the proposed parking spaces at the place under the pre-authorisation are to be located — the legal description;
- (c) any conditions to which the pre-authorisation is subject under section 30(1)(b);
- (d) the day on which the pre-authorisation commences and the period for which the pre-authorisation is granted;
- (e) any prescribed information.

Note for this section:

If a pre-authorisation is refused to be approved or granted, a notice must be given under Division 13.

Division 4 — Applications for and grants of special purpose authorisations

33. Applications for special purpose authorisations

- (1) An owner of land in the PM area may apply to the CEO for a special purpose authorisation for 1 or more parking spaces on the land.
- (2) An application must —
 - (a) be in an approved form; and
 - (b) if there is a legal description available for the land — include the legal description; and
 - (c) if required by the CEO at the time of application — be accompanied by a parking management plan for the land; and
 - (d) be accompanied by any prescribed information; and
 - (e) be accompanied by any prescribed application fee; and
 - (f) be authorised by a relevant owner of the land.
- (3) The application fee is not refundable.

- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice (including a parking management plan if not required under subsection (2)(c)) within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.
- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

34. Grants of special purpose authorisations by CEO

- (1) This section applies if an owner of land in the PM area makes an application under section 33.
- (2) The CEO may grant a special purpose authorisation to the owner for 1 or more parking spaces on the land if satisfied that —
 - (a) the parking spaces are for a special purpose; and
 - (b) the proposed authorisation, including any conditions, is consistent with the parking policy; and
 - (c) if a development approval is required in relation to parking — the development approval has been granted and complied with in relation to parking; and
 - (d) if the special purpose is a special event — any extra demand created for parking spaces in relation to the

special event may not be able to be accommodated by alternative means.

Examples for this subsection:

For the purposes of paragraph (d) —

- (a) alternative parking arrangements;
- (b) alternative or increased public transport services.

- (3) If a development approval is required in relation to parking, the parking policy referred to in subsection (2)(b) is the policy in force on the day on which the latest development approval is granted.

35. Conditions of special purpose authorisations

- (1) A special purpose authorisation for 1 or more parking spaces on land is granted subject to each of the following conditions —
 - (a) any prescribed conditions;
 - (b) any conditions imposed by the CEO under subsection (2).
- (2) The CEO may impose conditions on a special purpose authorisation in writing when the authorisation is granted under section 34(2).
- (3) Without limiting subsection (1) or (2), conditions may include 1 or more of the following —
 - (a) the number of parking spaces of a specified category that may be used for the parking of relevant vehicles;
 - (b) the location of the parking spaces on the land;
 - (c) that parking in the parking spaces is restricted to a particular type of relevant vehicle or relevant vehicles in particular circumstances.

36. Duration of special purpose authorisations

- (1) A special purpose authorisation commences on the day on which it is granted, or a day specified in writing by the CEO when the CEO grants the authorisation under section 34(2).

Note for this subsection:

A special purpose authorisation that commences on a day commences at the beginning of the day under section 152.

- (2) A day specified in writing referred to in subsection (1) may be earlier than the day on which the special purpose authorisation is granted but no earlier than the day on which the application for the special purpose authorisation is made.
- (3) A special purpose authorisation is granted for a period, specified in writing by the CEO when the authorisation is granted, that is no longer than the following —
- (a) if the authorisation is for a special event —
 - (i) a period of 30 days; or
 - (ii) a longer prescribed period;
 - (b) in any other case — the prescribed period.
- (4) Subject to suspension under Division 10, a special purpose authorisation remains in force until whichever of the following occurs first —
- (a) it expires;
 - (b) it is cancelled under Division 11.

Note for this subsection:

A special purpose authorisation that expires or is cancelled on a day expires or is cancelled at the end of the day under section 153.

37. Information must be given for special purpose authorisations

- (1) If the CEO grants a special purpose authorisation, the CEO must give written notice to the authorisation holder that includes all of the following information —
 - (a) the authorisation holder's name;
 - (b) if there is a legal description available for the land on which the parking spaces under the authorisation are located — the legal description;
 - (c) the location on the land of the parking spaces under the authorisation;
 - (d) any conditions to which the authorisation is subject under section 35(1)(b);
 - (e) the day on which the authorisation commences and the period for which the authorisation is granted;
 - (f) any prescribed information.
- (2) If a special purpose authorisation is subject to conditions under section 35(1)(b), the written notice under subsection (1) must include a statement that the authorisation holder may have a right to apply for a review under Part 4.

Note for this section:

If a special purpose authorisation is refused to be granted, a notice must be given under Division 13.

Division 5 — Renewing parking space licences

38. Renewing parking space licences

- (1) This section applies if licence fees for a renewal of a parking space licence are paid before the expiry of the licence being renewed.
- (2) The CEO may renew the parking space licence.

- (3) In deciding whether to renew the parking space licence the CEO must have regard to whether —
- (a) any information given by a relevant licence holder in, or in connection with, the application for the licence, or an application for a variation or transfer of the licence, is false or misleading in a material particular; and
 - (b) a relevant licence holder has failed to comply with a requirement under this Act; and
 - (c) a relevant licence holder has failed to comply with any condition of the licence.

39. Conditions of parking space licences on renewal

A parking space licence that is renewed is granted subject to each of the following conditions —

- (a) the conditions (other than conditions under section 25(1)(a)) to which the licence was subject immediately before renewal;
- (b) the conditions under section 25(1)(a) that apply, or continue to apply, to the licence for the further period granted on renewal.

40. Duration of parking space licences on renewal

- (1) A parking space licence that is renewed under section 38 is granted for a further period that —
- (a) commences on the day after the expiry of the licence that is being renewed; and
 - (b) ends at the end of —
 - (i) if a period is prescribed for the licence and the licence holder selects the period — the period selected; or
 - (ii) if no period is prescribed for the licence or the licence holder does not select a prescribed

period — the period agreed in writing between the CEO and the licence holder; or

- (iii) if subparagraph (i) does not apply and no period is agreed under subparagraph (ii) — the period ending on 30 June in the financial year in which the licence is renewed.

Note for this subsection:

For the purposes of paragraph (a) — a parking space licence renewal that commences on a day commences at the beginning of the day under section 152.

- (2) Subject to suspension under Division 10, a parking space licence that is renewed remains in force until whichever of the following occurs first —
 - (a) it expires;
 - (b) it is cancelled under Division 11.

Note for this subsection:

A parking space licence that expires or is cancelled on a day expires or is cancelled at the end of the day under section 153.

41. Information must be given for renewal of parking space licences

If the CEO renews a parking space licence, the CEO must give written notice to the licence holder that includes all of the following information —

- (a) the licence holder's name;
- (b) if there is a legal description available for the land on which the parking spaces under the licence are located — the legal description;
- (c) the location on the land of the parking spaces under the licence;
- (d) any conditions to which the licence is subject under section 39(a);

- (e) the day on which the renewed licence commences and the period for which the renewed licence is granted;
- (f) any prescribed information.

Division 6 — Varying parking space licences

42. Applications for varying parking space licences

- (1) A licence holder may apply to the CEO for a grant of a variation of their parking space licence, including 1 or more conditions (other than prescribed conditions) imposed on their parking space licence.
- (2) An application must be —
 - (a) in an approved form; and
 - (b) if required by the CEO at the time of application — accompanied by a parking management plan for the land to which the licence relates; and
 - (c) accompanied by any prescribed information; and
 - (d) accompanied by any prescribed application fee; and
 - (e) authorised by the owner of the land to which the licence relates.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice (including a parking management plan if not required under subsection (2)(b)) within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.

- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

43. Varying parking space licences without approval from Minister

- (1) This section applies if —
 - (a) a licence holder makes an application under section 42 for a grant of a variation of their parking space licence; and
 - (b) the variation is not to a condition approved by the Minister under section 25(3) (including a condition approved by the Minister that applies under section 39(a) or 59(1)(b)).
- (2) The CEO may grant a variation of the licence holder's parking space licence in relation to land if satisfied that —
 - (a) if a development approval is required in relation to the proposed variation —
 - (i) the development approval is granted; and
 - (ii) the number of parking spaces, or the number of parking spaces of a specified category, granted under the proposed licence as varied is not greater than allowed under the development approval; and
 - (iii) the development approval has been complied with;
 - and
 - (b) any additional licence fees for the proposed licence as varied have been paid; and

- (c) if the parking space licence was suspended under section 61(1)(a), (b), (c) or (d) — the licence holder will not fail to comply with —
 - (i) a requirement under this Act in relation to the proposed licence as varied; and
 - (ii) any condition of the proposed licence as varied; and
- (d) if a relevant licence holder has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c) — the relevant licence holder will not fail to comply with —
 - (i) a requirement under this Act in relation to the proposed licence as varied; and
 - (ii) any condition of the proposed licence as varied.
- (3) Without limiting subsection (2), a variation may include any of the following —
 - (a) varying the number of parking spaces under the licence;
 - (b) varying the category of parking spaces under the licence;
 - (c) varying 1 or more conditions of the licence;
 - (d) adding 1 or more conditions of the licence;
 - (e) removing 1 or more conditions of the licence.
- (4) The CEO must not grant a variation of a licence under subsection (2) during a licence period if —
 - (a) the licence has been varied during the period more than, or equal to, the prescribed number of times unless the CEO is satisfied that there are exceptional circumstances to justify the proposed variation; or
 - (b) the licence is suspended; or

- (c) the proposed variation increases the number of parking spaces under the licence above that allowed under the parking policy; or
- (d) the proposed variation changes the categories of parking spaces under the licence in a way that is not allowed under the parking policy.

Examples for this subsection:

For the purposes of paragraph (d) —

- (a) the variation changes the number of parking spaces of a specified category under a licence in a way that is not allowed under the parking policy;
 - (b) the variation converts a parking space of a specified category under a licence to another category in a way that is not allowed under the parking policy.
- (5) Despite any development approval referred to in subsection (2)(a), the CEO may grant fewer parking spaces, or fewer parking spaces of a specified category, under a parking space licence as varied than the maximum allowable under the development approval.
- (6) If a development approval is required in relation to 1 or more parking spaces on the land that are to be included under the licence as varied, the parking policy referred to in subsection (4)(c) or (d) is the policy in force on the day on which the latest development approval is granted.

44. Varying parking space licences with approval from Minister

- (1) This section applies if —
- (a) a licence holder makes an application under section 42 for a grant of a variation of their parking space licence; and
 - (b) section 43 does not apply or the CEO refuses to grant the variation under section 43; and
 - (c) the licence holder gives written notice to the CEO that the application is to be considered under this section.

- (2) The CEO must refer the application to the Minister to approve a grant of a variation of the licence holder's parking space licence in relation to land if the CEO considers that the application is suitable for referral having regard to each of the following —
- (a) whether the number of parking spaces, or the number of parking spaces of a specified category, under the proposed licence as varied is appropriate in the circumstances;
 - (b) the impact that parking of relevant vehicles in the parking spaces in accordance with the proposed licence as varied, and traffic flow of the relevant vehicles to and from the parking spaces, would be likely to have on —
 - (i) environmental sustainability; and
 - (ii) economic activity and urban amenity in the PM area; and
 - (iii) pedestrian and cycle traffic in the PM area; and
 - (iv) traffic flow and the transport network in the PM area; and
 - (v) the operation of public transport in the PM area;
 - (c) the availability of public transport near the land;
 - (d) whether infrastructure, facilities or services are to be provided on or near the land to improve transport, accessibility, environmental sustainability or urban amenity for the benefit of the occupants of the land or the public;
 - (e) whether a relevant licence holder has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c);
 - (f) any other relevant matter.
- (3) The CEO must not refer under subsection (2) an application for a variation of a licence during a licence period if the licence has been varied during the period more than, or equal to, the

prescribed number of times unless the CEO is satisfied that there are exceptional circumstances to justify the proposed variation.

- (4) The Minister may, on referral under subsection (2), approve a grant of a variation of the licence holder's parking space licence in relation to land if the Minister is satisfied the proposed variation is reasonable in all the circumstances having regard to each of the matters referred to in subsection (2)(a) to (f).
- (5) If a development approval is required in relation to the variation, the CEO must not refer an application in relation to the variation under subsection (2), and the Minister must not give approval under subsection (4), unless satisfied that —
 - (a) the development approval is granted; and
 - (b) the number of parking spaces, or the number of parking spaces of a specified category, granted under the proposed licence as varied is not greater than allowed under the development approval; and
 - (c) the development approval has been complied with.
- (6) Despite any development approval referred to in subsection (5), the Minister may approve the grant of fewer parking spaces, or fewer parking spaces of a specified category, under a parking space licence as varied than the maximum allowable under the development approval.
- (7) Without limiting subsection (4), a variation may include any of the following —
 - (a) varying the number of parking spaces under the licence;
 - (b) varying the category of parking spaces under the licence;
 - (c) varying 1 or more conditions of the licence;
 - (d) adding 1 or more conditions of the licence;
 - (e) removing 1 or more conditions of the licence.

- (8) The CEO must grant the variation if —
- (a) the Minister approves the grant of the variation under subsection (4); and
 - (b) any additional licence fees for the licence as varied have been paid.

45. Information must be given for variations of parking space licences

- (1) The CEO must give written notice of a grant of a variation of a parking space licence to the licence holder.
- (2) The notice must include —
- (a) a confirmation of how the licence has been varied; and
 - (b) if the variation is different to the variation applied for — a statement that the licence holder may have a right to apply for a review under Part 4; and
 - (c) any prescribed details.

Note for this section:

If a variation is refused to be approved or granted, a notice must be given under Division 13.

46. Effect of variations

- (1) A variation of a parking space licence granted under section 43 or 44(8) takes effect on —
- (a) the day on which a notice under section 45(1) is given to the licence holder; or
 - (b) a day specified by the CEO in the notice under section 45(1).

Note for this subsection:

A variation that takes effect on a day takes effect at the beginning of the day under section 152.

- (2) A day specified under subsection (1)(b) may be earlier than the day on which the variation of the licence is granted or approved

to be granted but no earlier than the day on which the application for the variation is made.

- (3) Subject to section 43(2)(b) and 44(8)(b), any licence fees are adjusted for the remainder of the licence period beginning on the day on which the variation takes effect.

Division 7 — Varying pre-authorisations

47. Applications for varying pre-authorisations

- (1) A pre-authorisation holder may apply to the CEO for a grant of a variation of their pre-authorisation, including 1 or more conditions (other than prescribed conditions) imposed on their pre-authorisation.
- (2) An application must be —
- (a) in an approved form; and
 - (b) accompanied by any prescribed information; and
 - (c) accompanied by any prescribed application fee; and
 - (d) authorised by the pre-authorisation holder.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.
- (6) The CEO may refuse an application for consideration, or further consideration, if —
- (a) it is not made in accordance with this Act; or

- (b) any further information has not been provided as required under subsection (4).

48. Varying pre-authorisations with approval from Minister

- (1) This section applies if a pre-authorisation holder makes an application under section 47 for a grant of a variation of their pre-authorisation.
- (2) The CEO must refer the application to the Minister to approve a grant of a variation of the pre-authorisation holder's pre-authorisation in relation to a place on land if the CEO considers that the application is suitable for referral having regard to each of the following —
 - (a) whether the number of parking spaces, or the number of parking spaces of a specified category, under the parking space licence to be granted in accordance with the proposed pre-authorisation as varied is appropriate in the circumstances;
 - (b) the impact that parking of relevant vehicles in the parking spaces under the parking space licence to be granted in accordance with the proposed pre-authorisation as varied, and traffic flow of the relevant vehicles to and from the parking spaces, would be likely to have on —
 - (i) environmental sustainability; and
 - (ii) economic activity and urban amenity in the PM area; and
 - (iii) pedestrian and cycle traffic in the PM area; and
 - (iv) traffic flow and the transport network in the PM area; and
 - (v) the operation of public transport in the PM area;
 - (c) the availability of public transport near the place;
 - (d) whether infrastructure, facilities or services are to be provided on or near the place to improve transport,

accessibility, environmental sustainability or urban amenity for the benefit of the occupants at the place or the public;

- (e) whether a relevant pre-authorisation holder has had a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) or a pre-authorisation cancelled under section 67(1)(a), (b) or (c);
 - (f) any other relevant matter.
- (3) The Minister may, on referral under subsection (2), approve a grant of a variation of the pre-authorisation holder's pre-authorisation in relation to a place on land if the Minister is satisfied that the proposed variation is reasonable having regard to each of the matters referred to in subsection (2)(a) to (f).
- (4) Without limiting subsection (3), a variation may include any of the following —
 - (a) varying the number of proposed parking spaces under the pre-authorisation;
 - (b) varying the category of proposed parking spaces under the pre-authorisation;
 - (c) varying 1 or more conditions of the pre-authorisation;
 - (d) adding 1 or more conditions of the pre-authorisation;
 - (e) removing 1 or more conditions of the pre-authorisation.
- (5) The CEO must grant the variation if the Minister approves the grant of the variation under subsection (3).

49. Information must be given for variations of pre-authorisations

- (1) The CEO must give written notice of a grant of a variation of a pre-authorisation to the pre-authorisation holder.
- (2) The notice must include —
 - (a) a confirmation about how the pre-authorisation has been varied; and

- (b) any prescribed details.

Note for this section:

If a variation is refused to be approved or granted, a notice must be given under Division 13.

50. Effect of variations

- (1) A variation of a pre-authorisation granted under section 48(5) takes effect on —
 - (a) the day on which a notice under section 49 is given to the pre-authorisation holder; or
 - (b) a day specified by the CEO in the notice under section 49.

Note for this subsection:

A variation that takes effect on a day takes effect at the beginning of the day under section 152.

- (2) A day specified under subsection (1)(b) may be earlier than the day on which the variation of the pre-authorisation is granted or approved to be granted but no earlier than the day on which the application for the variation is made.

Division 8 — Varying special purpose authorisations

51. Applications for varying special purpose authorisations

- (1) An authorisation holder may apply to the CEO to grant a variation of their special purpose authorisation, including 1 or more conditions (other than prescribed conditions) imposed on their authorisation.
- (2) An application must be —
 - (a) in an approved form; and
 - (b) if required by the CEO at the time of application —
accompanied by a parking management plan for the land to which the authorisation relates; and
 - (c) accompanied by any prescribed information; and

- (d) accompanied by any prescribed application fee; and
 - (e) authorised by a relevant owner of the land to which the authorisation relates.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice (including a parking management plan if not required under subsection (2)(b)) within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.
- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

52. Varying special purpose authorisations by CEO

- (1) This section applies if an authorisation holder makes an application under section 51 for a grant of a variation of their special purpose authorisation.
- (2) The CEO may grant a variation of the authorisation holder's special purpose authorisation if satisfied that —
 - (a) the proposed variation is necessary or convenient to give effect to a special purpose; and
 - (b) if a development approval is required in relation to the proposed variation — the development approval has been granted and complied with; and
 - (c) the proposed variation is consistent with the parking policy; and

- (d) if the special purpose is a special event — any extra demand created for parking spaces in relation to the proposed variation may not be able to be accommodated by alternative means.

Examples for this subsection:

For the purposes of paragraph (d) —

- (a) alternative parking arrangements;
 - (b) alternative or increased public transport services.
- (3) The CEO must not grant a variation of a special purpose authorisation under subsection (2) if the authorisation is suspended.
 - (4) Without limiting subsection (2), a variation may include any of the following —
 - (a) varying the number of parking spaces under the authorisation;
 - (b) varying the category of parking spaces under the authorisation;
 - (c) varying 1 or more conditions of the authorisation;
 - (d) adding 1 or more conditions of the authorisation;
 - (e) removing 1 or more conditions of the authorisation.
 - (5) If a development approval is required in relation to the variation, the parking policy referred to in subsection (2)(c) is the policy in force on the day on which the latest development approval is granted.

53. Information must be given for variations of special purpose authorisations

- (1) The CEO must give written notice of the grant of a variation of a special purpose authorisation to the authorisation holder.
- (2) The notice must include —
 - (a) a written confirmation of how the authorisation has been varied; and

- (b) if the variation is different to the variation applied for —
a statement that the authorisation holder may have a
right to apply for a review under Part 4; and
- (c) any prescribed details.

Note for this section:

If a variation is refused to be granted, a notice must be given under
Division 13.

54. Effect of variations

- (1) A variation of a special purpose authorisation granted under
section 52 takes effect on —
 - (a) the day on which a notice under section 53 is given to
the authorisation holder; or
 - (b) a day specified by the CEO in the notice under
section 53.

Note for this subsection:

A variation that takes effect on a day takes effect at the beginning of
the day under section 152.

- (2) A day specified under subsection (1)(b) may be earlier than the
day on which the variation of the authorisation is granted but no
earlier than the day on which the application for the variation is
made.

Division 9 — Transferring parking space licences

55. Terms used

In this Division —

new licence holder, in relation to a parking space licence for
1 or more parking spaces on land, means a new owner of the
land to whom the CEO has transferred the licence under
section 57(2);

new owner means —

- (a) in relation to land referred to in section 5(2)(f)(i) — a person who becomes registered as proprietor of the land under the *Transfer of Land Act 1893*; or
- (b) in any other case — the prescribed person.

56. Applications to transfer parking space licences

- (1) A new owner of land in the PM area for which a parking space licence is in force may apply for the licence to be transferred to the person within —
 - (a) 20 business days after the day on which the person becomes the new owner; or
 - (b) a longer period approved in writing by the CEO if there are exceptional circumstances to justify the longer period.
- (2) An application must be —
 - (a) in an approved form; and
 - (b) accompanied by any prescribed information; and
 - (c) accompanied by any prescribed application fee; and
 - (d) authorised by the new owner of the land.
- (3) The application fee is not refundable.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further relevant information that is specified in the notice within the period (being not less than 15 business days) specified in the notice.
- (5) A notice under subsection (4) must include a statement that an applicant's failure to comply with the notice may result in the CEO refusing the application for consideration or further consideration.

- (6) The CEO may refuse an application for consideration, or further consideration, if —
 - (a) it is not made in accordance with this Act; or
 - (b) any further information has not been provided as required under subsection (4).

57. Transferring parking space licences

- (1) This section applies if a new owner of land for which a parking space licence is in force makes an application under section 56 for a transfer of the licence.
- (2) The CEO may transfer the parking space licence to the new owner if satisfied that —
 - (a) the new owner will not fail to comply with —
 - (i) a requirement under this Act in relation to the licence; and
 - (ii) any condition of the licence;
 - and
 - (b) any licence fees for the period beginning on the day on which they became the new owner and for the remaining duration of the licence period have been paid.
- (3) If the CEO refuses to transfer under subsection (2) a parking space licence to a new owner, the licence expires on —
 - (a) the day on which notice of the decision is given to the new owner under section 72; or
 - (b) a later day specified by the CEO in the notice under section 72.

Note for this subsection:

A parking space licence that expires on a day expires at the end of the day under section 153.

58. Information must be given for transfer of parking space licences

If the CEO transfers a parking space licence to a new licence holder, the CEO must give written notice to the new licence holder that includes all of the following information —

- (a) the new licence holder's name;
- (b) if there is a legal description available for the land on which the parking spaces under the licence are located — the legal description;
- (c) any conditions (other than conditions under section 25(1)(a)) to which the licence was subject immediately before the transfer;
- (d) the day on which the transfer of the licence takes effect and the remaining period before the licence expires;
- (e) any prescribed information.

Note for this section:

If a transfer is refused, a notice must be given under Division 13.

59. Effect of transfers

- (1) A transfer of a parking space licence to a new licence holder under section 57(2) in relation to parking spaces on land takes effect —
 - (a) on the day (the *effective transfer day*) on which the new licence holder became the new owner of the land (whether or not the day is before the day on which the CEO transfers the licence under section 57(2)) and for the remaining period (the *transfer period*) of the licence; and
 - (b) subject to the conditions to which the licence was subject immediately before the transfer.

Note for this subsection:

For the purposes of paragraph (a) — a transfer that takes effect on a day takes effect at the beginning of the day under section 152.

- (2) A person (the *former licence holder*) who was the licence holder of a parking space licence immediately before an effective transfer day is entitled to a refund (the *refund amount*) of any licence fees paid for the transfer period unless the former licence holder requests that the CEO credits the refund amount to the new licence holder.
- (3) A former licence holder is —
 - (a) taken not to be the licence holder of the parking space licence on and after the effective transfer day; and
 - (b) not liable for any licence fees on and after the effective transfer day.

Division 10 — Suspending parking space approvals

60. Term used: suspension order

In this Division —

suspension order has the meaning given in section 61(1).

61. Suspending parking space approvals

- (1) The CEO may make an order (a *suspension order*) suspending a parking space approval if —
 - (a) information given by a relevant approval holder in, or in connection with, the application for the approval, or an application for a variation of the approval, is false or misleading in a material particular; or
 - (b) if the parking space approval is a parking space licence — information given by a relevant licence holder in, or in connection with, an application to transfer the licence is false or misleading in a material particular; or
 - (c) a relevant approval holder has failed to comply with a requirement under this Act; or

- (d) a relevant approval holder has failed to comply with a condition of the approval; or
 - (e) any fees payable under this Act are not paid on or before the due date.
- (2) The CEO must not make a suspension order unless the CEO has —
- (a) given notice under section 62 to the approval holder at least 15 business days, or a longer period specified by the CEO in the notice, before the day on which the order is made; and
 - (b) considered —
 - (i) any reasons received from the approval holder why the suspension order should not be made; and
 - (ii) any other relevant matter.

62. Notices of proposed suspension

The CEO may give a notice to an approval holder of a parking space approval that —

- (a) states that the CEO suspects there may be grounds (*suspension grounds*) to make a suspension order for the parking space approval; and
- (b) provides particulars of the suspected suspension grounds; and
- (c) states that the approval holder may provide written reasons why the suspension order should not be made within 15 business days, or a longer period specified by the CEO in the notice, after the day on which the notice is given; and
- (d) includes any prescribed requirements.

63. Period of suspensions

A parking space approval subject to a suspension order is suspended for a period —

- (a) beginning on the day after the day on which notice of the decision is given to the approval holder under section 72 or a later day specified in the notice under section 72; and
- (b) ending on the first of the following to occur —
 - (i) the day on which the suspension order expires under 65(3);
 - (ii) the day on which the approval is cancelled under section 69(1);
 - (iii) the day on which the approval expires.

Notes for this section:

- 1. For the purposes of paragraph (a) — a suspension period beginning on a day begins at the beginning of the day under section 152.
- 2. For the purposes of paragraph (b) — a suspension period ending on a day ends at the end of the day under section 153.

64. Effect of suspensions

- (1) A parking space approval is not in force during any period of suspension.
- (2) A parking space approval that is suspended may be cancelled or may expire.
- (3) A parking space licence that is suspended may be transferred under Division 9.
- (4) A licence holder whose parking space licence is suspended is liable for licence fees for the licence during any period of suspension.

65. Revocation of suspensions

- (1) The CEO may revoke a suspension order at any time in relation to a parking space approval.
- (2) Despite subsection (1), the CEO must revoke a suspension order in relation to a parking space approval as soon as practicable after the CEO is satisfied of any of the following —
 - (a) the grounds for making the order no longer exist;
 - (b) without limiting paragraph (a), if the order relates to a failure to comply referred to in section 61(1)(c) or (d) — the approval is to be varied under Division 6 or 8 and no failure to comply referred to in section 61(1)(c) and (d) will occur following the variation.
- (3) A suspension order that is revoked expires on —
 - (a) the day on which a notice is given to the approval holder under subsection (4); or
 - (b) a later day specified in the notice under subsection (4).

Note for this subsection:

A suspension period that expires on a day expires at the end of the day under section 153.

- (4) The CEO must give written notice of a revocation of a suspension order in relation to a parking space approval to the approval holder.

Division 11 — Cancelling parking space approvals and pre-authorisations

66. Cancelling parking space approvals

- (1) The CEO may make an order cancelling a parking space approval in relation to 1 or more parking spaces on land if —
 - (a) information given by a relevant approval holder in, or in connection with, the application for the approval, or an

- application for a variation of the approval, is false or misleading in a material particular; or
- (b) if the parking space approval is a parking space licence — information given by a relevant licence holder in, or in connection with, an application to transfer the licence is false or misleading in a material particular; or
 - (c) a relevant approval holder has failed to comply with a requirement under this Act; or
 - (d) a relevant approval holder has failed to comply with a condition of the approval; or
 - (e) any fees in relation to the approval under this Act are not paid on or before the due date; or
 - (f) the land is subject to a development approval that affects parking on the land or that subdivides the land; or
 - (g) if the parking space approval is a parking space licence —
 - (i) a new owner of the land, as defined in section 55, has not applied under section 56 to transfer the licence; or
 - (ii) a new owner of the land, as defined in section 55, has applied under section 56 to transfer the licence and the transfer is refused.
- (2) The CEO must not make an order under subsection (1) unless the CEO has —
- (a) given notice under section 68 to the approval holder at least 15 business days, or a longer period specified in the notice, before the day on which the order is made; and
 - (b) considered —
 - (i) any reasons received from the approval holder why the order should not be made; and
 - (ii) any other relevant matter.

- (3) The CEO must make an order cancelling a parking space approval if the approval holder requests that the approval is to be cancelled.

67. Cancelling pre-authorisations

- (1) The CEO may make an order cancelling a pre-authorisation in relation to 1 or more parking spaces on land if —
- (a) information given by a relevant pre-authorisation holder in, or in connection with, the application for the pre-authorisation is false or misleading in a material particular; or
 - (b) a relevant pre-authorisation holder has failed to comply with a requirement under this Act; or
 - (c) a relevant pre-authorisation holder has failed to comply with a condition of the pre-authorisation; or
 - (d) the land is subject to a development approval and the development approval —
 - (i) is amended in a way that affects parking on the land; or
 - (ii) has not been complied with in relation to parking; or
 - (iii) lapses or is cancelled or is replaced with a new development approval.
- (2) The CEO must not make an order under subsection (1) unless the CEO has —
- (a) given notice under section 68 to the pre-authorisation holder at least 15 business days, or a longer period specified in the notice, before the day on which the order is made; and
 - (b) considered —
 - (i) any reasons received from the pre-authorisation holder why the order should not be made; and

- (ii) any other relevant matter.
- (3) The CEO must make an order cancelling a pre-authorisation in relation to 1 or more proposed parking spaces on land if —
 - (a) the pre-authorisation holder requests that the pre-authorisation is to be cancelled; or
 - (b) the owner of the land requests that the pre-authorisation is to be cancelled.

68. Notices of proposed cancellation

The CEO may give a notice to an approval holder of a parking space approval or pre-authorisation holder of a pre-authorisation that —

- (a) states that the CEO suspects there may be grounds (***cancellation grounds***) to make an order cancelling the parking space approval or pre-authorisation; and
- (b) provides particulars of the suspected cancellation grounds; and
- (c) states that the approval holder or pre-authorisation holder may provide written reasons why the order should not be made within 15 business days, or a longer period specified by the CEO in the notice, after the day on which the notice is given; and
- (d) includes any prescribed requirements.

69. Effect of cancellations

- (1) A parking space approval or pre-authorisation is cancelled on —
 - (a) the day on which notice of the cancellation is given under section 72 to the approval holder or the pre-authorisation holder; or

- (b) a later day specified in the notice given under section 72 to the approval holder or the pre-authorisation holder.

Note for this subsection:

A parking space approval or pre-authorisation cancelled on a day is cancelled at the end of the day under section 153.

- (2) A person whose parking space licence is cancelled is entitled to a refund of any licence fees paid for the period of the licence after the cancellation takes effect.

Division 12 — Licence fees for parking space licences

70. Licence fees

- (1) Any licence fees for a parking space licence are payable in advance by the licence holder for the period of the licence on the grant, variation, renewal or transfer of the licence unless the licence fees have already been paid in advance, or as otherwise provided for, under this Act.
- (2) Without limiting subsection (1), the regulations may —
- (a) prescribe licence fees payable in relation to a parking space licence to be calculated by reference to prescribed matters, including in relation to —
 - (i) the period of the licence; and
 - (ii) the number of parking spaces under the licence; and
 - (iii) different rates for different categories of parking spaces specified under the licence; and
 - (iv) the location of the parking spaces specified under the licence, with different rates for different locations;
 - (v) categories of parking spaces under the licence, or parking spaces in specified locations, for which nil fees are payable;
- and

- (b) provide for the amount of licence fees payable to be calculated on a prescribed basis, and in accordance with prescribed factors; and
- (c) prescribe licence fees that include amounts greater than necessary for cost recovery or an amount to contribute to the PM Area Account for funding current or future fundable projects under Part 6.

71. Exemptions from licence fees

- (1) A category of parking space or parking spaces in a specified location may be prescribed, wholly or in part, to be exempt from licence fees under a parking space licence if —
 - (a) there are exceptional circumstances that justify the exemption; or
 - (b) the exemption is —
 - (i) to facilitate development in a location in the PM area; and
 - (ii) for no more than 3 years.

Example for this subsection:

For the purposes of paragraph (a) — a public health emergency, flooding, bushfires or other emergency.

- (2) An exemption under subsection (1) may be subject to 1 or more conditions.
- (3) An exemption under subsection (1) must specify the period for which the exemption applies.
- (4) An exemption under subsection (1) is in addition to and does not limit the power to make regulations to prescribe nil licence fees for categories of parking spaces or parking spaces in specified locations under section 70(2)(a)(v).
- (5) To the extent that a licence fee under this Act (including a licence fee determined under regulations made under this Act) is a tax, the fee may be exempted under subsection (1).

Division 13 — Notices of decisions

72. Notices of decisions

- (1) The CEO must give written notice of a decision (a ***notifiable decision***) listed in column 2 of the Table to a person (a ***notifiable person***) listed opposite in column 3 of the Table.

Table

Item	Notifiable decision	Notifiable person
1.	A decision to refuse an application for consideration, or further consideration, under section 21(6)	The person whose application is refused for consideration or further consideration
2.	A decision to refuse to grant a parking space licence under section 22 or 23	The person whose application is refused
3.	A decision to refuse to refer an application for an approval to grant a parking space licence under section 24	The person whose application is refused for referral
4.	A decision to refuse to approve the grant of a parking space licence under section 24	The person whose application is refused
5.	A decision to refuse to grant a parking space licence under section 24(6)	The person whose application is refused

Item	Notifiable decision	Notifiable person
6.	A decision to refuse an application for consideration, or further consideration, under section 28(6)	The person whose application is refused for consideration or further consideration
7.	A decision to refuse to refer an application for an approval to grant a pre-authorisation under section 29	The person whose application is refused for referral
8.	A decision to refuse to approve a grant of a pre-authorisation under section 29(4)	The person whose application is refused
9.	A decision to refuse to grant a pre-authorisation under section 29(5)	The person whose application is refused
10.	A decision to refuse an application for consideration, or further consideration, under section 33(6)	The person whose application is refused for consideration or further consideration
11.	A decision to refuse to grant a special purpose authorisation under section 34(2)	The person whose application is refused
12.	A decision to refuse to renew a parking space licence under section 38	The person who is or was the licence holder

Item	Notifiable decision	Notifiable person
13.	A decision to refuse an application for consideration, or further consideration, under section 42(6)	The person whose application is refused for consideration or further consideration
14.	A decision to refuse to grant a variation of a parking space licence under section 43	The person whose application is refused
15.	A decision to refuse to refer an application for an approval to grant a variation of a parking space licence under section 44	The person whose application is refused for referral
16.	A decision to refuse to approve a grant of a variation of a parking space licence under section 44	The person whose application is refused
17.	A decision to refuse to grant a variation of a parking space licence under section 44(8)	The person whose application is refused
18.	A decision to refuse an application for consideration, or further consideration, under section 47(6)	The person whose application is refused for consideration or further consideration

Item	Notifiable decision	Notifiable person
19.	A decision to refuse to refer an application for an approval to grant a variation of a pre-authorisation under section 48(2)	The person whose application is refused for referral
20.	A decision to refuse to approve a grant of a variation of a pre-authorisation under section 48(3)	The person whose application is refused
21.	A decision to refuse to grant a variation of a pre-authorisation under section 48(5)	The person whose application is refused
22.	A decision to refuse an application for consideration, or further consideration, under section 51(6)	The person whose application is refused for consideration or further consideration
23.	A decision to refuse to grant a variation of a special purpose authorisation under section 52	The person whose application is refused

Item	Notifiable decision	Notifiable person
24.	A decision to refuse an application for consideration, or further consideration, under section 56(6)	The person whose application is refused for consideration or further consideration
25.	A decision to refuse to transfer a parking space licence under section 57(2)	The person whose application is refused
26.	A decision to suspend a parking space approval under section 61	The approval holder
27.	A decision to cancel a parking space approval under section 66	The approval holder
28.	A decision to cancel a pre-authorisation under section 67	The pre-authorisation holder

- (2) If the notifiable decision is a reviewable decision, the notice under subsection (1) must state —
- (a) the reasons for the decision; and
 - (b) that the notifiable person may have a right to apply for a review under Part 4.

Division 14 — Parking space register

73. Parking space register

- (1) The CEO may establish and keep a register (a ***parking space register***) of information relating to 1 or more of the following —
 - (a) parking space approvals;
 - (b) pre-authorisations;
 - (c) other prescribed matters.
- (2) The regulations may make provision for —
 - (a) the form and content of the parking space register; and
 - (b) access to, or requests for, information from the parking space register, including what information must be withheld.

Division 15 — False or misleading information

74. False or misleading information

A person commits an offence if the person in, or in connection with, an application under this Part, provides information that the person knows is false or misleading in a material particular.

Penalty: a fine of \$10 000.

Part 4 — Review of decisions

75. Terms used

In this Part —

review applicant and *review period* have the meanings given in section 76.

76. Applications to State Administrative Tribunal for review

A person (a *review applicant*) listed in column 3 of the Table opposite a decision (a *reviewable decision*) in column 2 of the Table may apply to the State Administrative Tribunal for a review of the reviewable decision within 20 business days (the *review period*) after the day on which the person is given notice of the reviewable decision.

Table

Item	Reviewable decision	Review applicant
1.	A decision to refuse to grant a parking space licence under section 22 or 23	The person whose application is refused
2.	A decision to impose 1 or more conditions on a parking space licence under section 25(2)	The licence holder
3.	A decision to refuse to grant a special purpose authorisation under section 34(2)	The person whose application is refused

Item	Reviewable decision	Review applicant
4.	A decision to impose 1 or more conditions on a special purpose authorisation under section 35(2)	The authorisation holder
5.	A decision to refuse to renew a parking space licence under section 38	The person who is or was the licence holder
6.	A decision to grant a variation of a parking space licence under section 43 in a way that was not applied for	The licence holder
7.	A decision to refuse to grant a variation of a parking space licence under section 43	The person whose application is refused
8.	A decision to grant a variation of a special purpose authorisation under section 52 in a way that was not applied for	The authorisation holder
9.	A decision to refuse to grant a variation of a special purpose authorisation under section 52	The person whose application is refused

Item	Reviewable decision	Review applicant
10.	A decision to refuse to transfer a parking space licence under section 57(2)	The person whose application is refused
11.	A decision to suspend a parking space approval under section 61	The approval holder
12.	A decision to cancel a parking space approval under section 66	The person who is or was the approval holder

77. Extensions of time to apply for review of certain reviewable decisions

Despite the review period referred to in section 76, a review applicant may apply under that section for a review of a relevant reviewable decision listed in column 2 of the Table within 40 business days after the day on which the review applicant is given notice of a relevant non-reviewable decision listed opposite in column 3 of the Table.

Table

Item	Relevant reviewable decision	Relevant non-reviewable decision
1.	A decision to refuse to grant a parking space licence under section 22 or 23	A decision of — (a) the CEO to refuse to refer the application for the licence under section 24; or

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Item	Relevant reviewable decision	Relevant non-reviewable decision
		(b) the Minister to refuse to approve the grant of the licence under section 24; or (c) the CEO to refuse to grant the licence under section 24(6)
2.	A decision to grant a variation of a parking space licence under section 43 in a way that was not applied for	A decision of — (a) the CEO to refuse to refer the application for the variation under section 44; or (b) the Minister to refuse to approve the grant of the variation under section 44; or (c) the CEO to refuse to grant the variation under section 44(8)
3.	A decision to refuse to grant a variation of a parking space licence under section 43	A decision of — (a) the CEO to refuse to refer the application for the variation under section 44; or

Item	Relevant reviewable decision	Relevant non-reviewable decision
		<p>(b) the Minister to refuse to approve the grant of the variation under section 44; or</p> <p>(c) the CEO to refuse to grant the variation under section 44(8)</p>

Part 5 — Enforcement

Division 1 — Authorised officers

78. Authorised officers

- (1) The CEO may designate a person employed, or engaged, in the Department as an authorised officer.
- (2) The CEO must ensure that each authorised officer is issued with a card (an *identity card*) that —
 - (a) is in a form approved under subsection (3); and
 - (b) identifies the person as an authorised officer.
- (3) The CEO may approve in writing the form of the identity card for authorised officers.
- (4) An authorised officer must —
 - (a) carry the officer's identity card when performing a function under this Act; and
 - (b) if it is practicable to do so, produce the officer's identity card before exercising a power under this Act.
- (5) In any proceedings, the production of an identity card is evidence of the designation under subsection (1) of the authorised officer to whom the card relates.

Division 2 — General powers

79. Term used: relevant person

In this Division —

relevant person means any of the following —

- (a) a person who is, or appears to be, the owner or responsible occupier of land in the PM area;
- (b) a person who is, was, or appears to be, an approval holder or pre-authorisation holder.

80. Purposes for which powers of authorised officers may be exercised

An authorised officer may exercise the powers set out in this Division for 1 or more of the following purposes —

- (a) to monitor compliance with this Act;
- (b) to investigate a suspected failure to comply with this Act;
- (c) to investigate whether there are grounds for suspending or cancelling a parking space approval or cancelling a pre-authorisation.

81. Directions to relevant persons and related matters

An authorised officer may do 1 or more of the following —

- (a) direct a relevant person to —
 - (i) give any information that is required (including the person's name, residential address and date of birth); or
 - (ii) answer a question put to the person;
- (b) direct a relevant person to produce a document or record that is in the person's possession or under the person's control;
- (c) make a copy of, take an extract from, download or print any document or record produced under paragraph (b);
- (d) seize a document or record produced under paragraph (b) and retain it for as long as is reasonably necessary.

82. Inspection of premises and powers in relation to vehicles

- (1) An authorised officer may enter premises where a vehicle is or may be parked in the PM area, whether or not the premises are occupied, and do 1 or more of the following —
 - (a) search the premises;

- (b) inspect a vehicle parked at the premises;
 - (c) direct any person in charge of a vehicle, or any person in a vehicle, parked on the premises to —
 - (i) give any information that is required; or
 - (ii) answer a question put to the person; or
 - (iii) state the person's name, residential address and date of birth; or
 - (iv) produce a document or record that is in the person's possession or under the person's control;
 - (d) make a still or moving image or recording of the premises and any thing in or on the premises;
 - (e) make a copy of, take an extract from, download or print any document or record found at the premises or produced under paragraph (c)(iv);
 - (f) seize a document or record found at the premises or produced under paragraph (c)(iv) and retain it for as long as is reasonably necessary;
 - (g) direct the occupier of the premises, or a person at the premises, to give the authorised officer any assistance that the officer reasonably requires for the purposes referred to in section 80.
- (2) The power to enter under subsection (1) any part of premises that is a dwelling must not be exercised unless —
- (a) the entry —
 - (i) has been consented to by the occupier of the dwelling; or
 - (ii) is in accordance with an entry warrant issued under Division 3;
- and

- (b) the entry is necessary —
 - (i) to gain entry to parking spaces on the premises or any location where a vehicle is or may be parked on the premises; or
 - (ii) to exercise powers referred to in subsection (1)(a) to (g) in relation to the part of the premises that is not a dwelling.

83. Requirement to comply with directions

If a person is directed under section 81 or 82 to give any information, answer any question or produce any document or record —

- (a) the person cannot refuse to comply with the direction on the ground that the information, answer, document or record may tend to incriminate the person or render the person liable to any penalty; but
- (b) if the person is an individual — the information or answer given, or document or record produced, by the person is not admissible in evidence in any criminal proceedings against the person other than proceedings for perjury or for providing false or misleading information under this Act.

84. Assistance to exercise powers

- (1) An authorised officer may authorise as many other persons to assist in the exercise of the authorised officer's powers under this Division as are reasonably necessary in the circumstances.
- (2) A person authorised under subsection (1) may exercise the power or assist the authorised officer to exercise the power, as the case requires.
- (3) Whether requested to do so or not, a person may assist another person to exercise a power under this Division if the person reasonably suspects that the other person —

- (a) is lawfully entitled to exercise the power; and
 - (b) needs assistance for the purpose of doing so.
- (4) A person who under this section is authorised by another person to exercise a power, or is assisting another person to exercise a power, must obey any lawful and reasonable directions of the other person when exercising, or assisting to exercise, the power.
- (5) If a person, acting under this section, exercises a power under this Division having been authorised by another person to do so, or assists another person to exercise a power under this Division, any enactment that protects the other person or the State from liability for the other person's acts is taken to operate as if those acts included the person's acts when acting under this section.

85. Offences

- (1) A person must comply with a direction of an authorised officer given under this Part.
Penalty for this subsection: a fine of \$10 000.
- (2) A person must not wilfully hinder or obstruct an authorised officer in the performance of a function under this Part.
Penalty for this subsection: a fine of \$10 000.
- (3) A person must not provide false information to, or wilfully mislead, an authorised officer in the performance of a function under this Part.
Penalty for this subsection: a fine of \$10 000.
- (4) A person must not fail to assist an authorised officer in the performance of a function under this Part when required to do so.
Penalty for this subsection: a fine of \$10 000.

Division 3 — Entry warrants

86. Terms used

- (1) In this Division —
remote communication means any way of communicating at a distance, including by telephone, fax, email, radio and other electronic means.
- (2) A reference in this Division to *making an application* includes a reference to giving information in support of the application.

87. Applications for entry warrants

- (1) An authorised officer may apply to a magistrate for an entry warrant authorising the entry of premises for the purposes referred to in section 80.
- (2) The application must be made in accordance with this Division and must include the prescribed information (if any).

88. Applications must be in person unless urgent

- (1) An application must be made in person before a magistrate unless —
 - (a) the warrant is needed urgently; and
 - (b) the applicant reasonably suspects that a magistrate is not available within a reasonable distance of the applicant or is not available in person within a reasonable time.
- (2) If subsection (1)(a) and (b) apply —
 - (a) the application may be made to the magistrate by remote communication; and
 - (b) the magistrate must not grant the application unless satisfied about the matters in subsection (1)(a) and (b).

89. Applications must be in writing unless made remotely

- (1) An application must be made in writing unless —
 - (a) the application is made by remote communication; and
 - (b) it is not practicable to send the magistrate written material.
- (2) If subsection (1)(a) and (b) apply —
 - (a) the application may be made orally; and
 - (b) the magistrate must make a written record of the application and any information given in support of it.

90. Applications must be on oath unless made remotely

- (1) An application must be made on oath unless —
 - (a) the application is made by remote communication; and
 - (b) it is not practicable for the magistrate to administer an oath to the applicant.
- (2) If subsection (1)(a) and (b) apply —
 - (a) the application may be made in an unsworn form; and
 - (b) if the magistrate issues an entry warrant, the applicant must as soon as practicable send the magistrate an affidavit verifying the application and any information given in support of it.

91. Form of entry warrants made remotely

- (1) If on an application made by remote communication a magistrate issues an entry warrant, the magistrate must if practicable send a copy of the original warrant to the applicant by remote communication, but otherwise —
 - (a) the magistrate must send the applicant by remote communication any information that must be set out in the warrant; and

- (b) the applicant must complete a form of warrant with the information received and give the magistrate a copy of the form as soon as practicable after doing so; and
 - (c) the magistrate must attach a copy of the form to the original warrant and any affidavit received from the applicant and make them available for collection by the applicant.
- (2) The copy of the original warrant sent, or the form of the warrant completed, as the case may be, under subsection (1) has the same force and effect as the original warrant.

92. Evidence obtained inadmissible if failure to comply with s. 90(2)(b) or 91(1)(b)

If an applicant fails to comply with section 90(2)(b) or 91(1)(b), any evidence obtained under the entry warrant is not admissible in proceedings in court or in the State Administrative Tribunal.

93. Issue and content of entry warrants

- (1) In relation to an application under section 87(1), a magistrate may issue an entry warrant if satisfied that it is necessary for an authorised officer to enter premises for the purposes referred to in section 80.
- (2) An entry warrant must contain the following information —
 - (a) the applicant's full name and authorisation;
 - (b) a reasonably particular description of the premises to which it relates;
 - (c) a reasonably particular description of the purposes for which entry is required;
 - (d) if a failure to comply with this Act is suspected — the provision concerned;
 - (e) the period during which it may be executed, which must not be longer than 30 days;

- (f) the name of the magistrate who issued it;
 - (g) the date and time when it was issued.
- (3) An entry warrant must be in the prescribed form.
- (4) If a magistrate refuses to issue an entry warrant, the magistrate must record on the application the fact of, the date and time of, and the reasons for, the refusal.

94. Effect of entry warrants

- (1) An entry warrant has effect according to its content and this section.
- (2) An entry warrant comes into force when it is issued by a magistrate.
- (3) An entry warrant may be executed by an authorised officer.

Division 4 — Obtaining business records

95. Terms used

In this Division —

business means any business, including a business of a governmental body or instrumentality or of a local government, or any occupation, trade or calling;

business record means a record prepared or used in the ordinary course of a business for the purpose of recording any matter related to the business;

order to produce means an order issued under section 98(1).

96. Application of Division

- (1) An order to produce must not be issued under this Division to a person in relation to a business record that relates, or may relate, to an offence that the person is suspected of having committed.

- (2) This Division does not prevent an authorised officer from applying for an entry warrant in relation to a business record, whether before or after the issue of an order to produce.

97. Applications for orders to produce

- (1) An authorised officer may apply for an order to produce a business record for 1 or more of the following purposes —
- (a) to investigate a suspected failure to comply with this Act;
 - (b) to investigate suspected grounds for suspending or cancelling a parking space approval or cancelling a pre-authorisation.
- (2) An application for an order to produce must be made to a magistrate in accordance with Division 3, with any necessary changes.
- (3) An application for an order to produce a business record must —
- (a) state the applicant's full name and authorisation; and
 - (b) state the purpose for which the order is required; and
 - (c) set out the prescribed information (if any); and
 - (d) state the name of the person to whom the order will apply; and
 - (e) state that the person is not suspected of having committed an offence; and
 - (f) describe with reasonable particularity the business record or class of business record that the applicant wants the person to produce; and
 - (g) state the reason the applicant reasonably believes the business record or class of business record is relevant to the investigation; and
 - (h) state whether the original or a copy of the business record or class of business record is required.

98. Issue of orders to produce

- (1) On an application made under section 97(1), a magistrate may issue an order to produce a business record if satisfied that, in relation to each of the matters in section 97(1) that the applicant suspects, there are reasonable grounds for the applicant to have that suspicion.
- (2) An order to produce must contain the following information —
 - (a) the applicant's full name and authorisation;
 - (b) the name of the person to whom the order applies;
 - (c) a reasonably particular description of the business record or class of business record to be produced by the person;
 - (d) an order that the person produce the record or records;
 - (e) whether the original or a copy of the record or records is required;
 - (f) whether a paper, electronic or other version of the record or records is required;
 - (g) the place where the record or records are to be produced;
 - (h) the date on or before which the order must be complied with, which must allow a reasonable period for the person to comply with the order;
 - (i) the name of the magistrate who issued it;
 - (j) the date and time when it was issued.
- (3) An order to produce must be in the prescribed form.
- (4) If a magistrate refuses to issue an order to produce, the magistrate must record on the application the fact of, the date and time of, and the reasons for, the refusal.

99. Service of orders to produce

- (1) An order to produce must be served on the person to whom it applies as soon as practicable after it is issued.

- (2) An order to produce may be served by personal service or by post or, with the consent of the person to be served, by email or fax or in some other way agreed with the person.

100. Effect of orders to produce

- (1) An order to produce has effect according to its content.
- (2) A person who is served with an order to produce and who, without reasonable excuse, fails to comply with the order commits an offence.

Penalty for this subsection: a fine of \$10 000.

101. Powers in relation to orders to produce

- (1) An authorised officer to whom a business record is produced under an order to produce may retain the business record for a reasonable time to determine its evidentiary value.
- (2) An authorised officer to whom a business record is produced may, if necessary to preserve the evidentiary value of the record or to subject it to forensic analysis —
- (a) seize the record; and
 - (b) whether or not the record is seized, subject it to forensic analysis; and
 - (c) make and retain a copy of it.
- (3) A person who produces a business record in compliance with an order to produce is not liable to any action or remedy by any person at common law for producing that document.

Division 5 — Seizing things and related matters

Subdivision 1 — Seizing things

102. Application

This Subdivision applies to and in relation to the seizing under this Part of a thing.

103. Grounds for seizing things

If this Part provides that an authorised officer may seize a thing, the authorised officer may do so only if the authorised officer reasonably suspects that it is necessary to seize the thing for 1 or more of the following purposes —

- (a) to prevent it from being concealed, disturbed or lost;
- (b) to preserve its evidentiary value;
- (c) to subject it to forensic analysis;
- (d) to prevent it from being used in the commission of an offence.

104. Copying records

- (1) If a record may be seized under this Part, the authorised officer authorised to seize it may, if practicable, reproduce the record, whether or not in the same form, and instead seize the reproduction.

Example for this subsection:

A record on a computer could be reproduced by printing it out on paper or copying it to a data storage device and the paper or data storage device could then be seized.

- (2) If a record is seized, the authorised officer authorised to seize it may copy or take extracts from the record.
- (3) If a record is seized and a relevant person so requests, the authorised officer must —
 - (a) if it is reasonably practicable to do so, give a copy of the record to the person as soon as practicable after it is seized; or
 - (b) unless the authorised officer reasonably suspects that doing so will jeopardise the evidentiary value of the record, allow the person to inspect the record and to make and keep a copy of it.

- (4) In subsection (3) —

relevant person means a person who —

- (a) appears entitled to possession of the record; and
- (b) does not already have a copy of the record.

105. Seizing of devices and equipment

If a record may be seized under this Part, any device or equipment needed to gain access to, recover or reproduce the information in the record may also be seized.

106. Powers to facilitate seizing of records

- (1) An authorised officer may exercise a power under this section for the purpose of seizing a record or exercising a power under section 104(1) or (2).
- (2) An authorised officer may operate any device or equipment, whether seized under section 105 or not —
 - (a) that is needed to gain access to, recover, or make a reproduction of, the record; and
 - (b) that is possessed by the person from whom the record may be seized.
- (3) If an authorised officer reasonably suspects that a relevant person knows how to gain access to or operate the device or equipment, the authorised officer may direct the relevant person to provide any information or assistance that is reasonable and necessary to enable the authorised officer to seize the record or exercise the power.
- (4) In subsection (3) —

relevant person means —

 - (a) the person from whom the record may be seized; or
 - (b) an employee (whether under a contract of service or a contract for services) of that person.

107. List of seized things to be supplied on request

- (1) If an authorised officer seizes any thing, the following persons may ask the authorised officer for a list of what was seized —
 - (a) the person who had custody or control of the thing before it was seized;
 - (b) the occupier of the premises where it was seized.
- (2) The authorised officer must comply with the request within a reasonable time after it is made.
- (3) If it is not reasonably practicable to list all the things seized because they are too numerous, the list may give a general description of the things but must contain as much detail as is reasonably practicable in the description.
- (4) This section does not apply in relation to a record if under section 104 a copy of the record was seized or given to the person making the request or the person making the request made and kept their own copy of the record.

Subdivision 2 — Procedure on seizure or production of privileged material

108. Terms used

In this Subdivision —

court means the Magistrates Court;

privileged means privileged because of 1 or more of the following —

- (a) legal professional privilege;
- (b) public interest privilege.

109. Seizure or production of privileged material

A record that is seized under this Part or that is produced under an order to produce a business record issued under section 98(1) must be dealt with in accordance with this Subdivision if —

- (a) a person entitled to possession of the record claims that all or some of the information in it is privileged; or
- (b) the authorised officer seizing the record or to whom it is produced reasonably suspects that all or some of the information in it is privileged.

110. Records must be secured

The record must be secured in a manner that —

- (a) prevents it from being concealed, disturbed or lost; and
- (b) preserves its evidentiary value; and
- (c) prevents access to the information in it by any person who would not be entitled to access to the information if it were privileged.

111. Applications to court

- (1) The authorised officer in charge of the investigation must apply to the court to decide whether the information is privileged and must deliver the record into the custody of the court.
- (2) The application must be made in accordance with the rules of court and must be served on the person entitled to possession of the record or, if the identity or whereabouts of the person is unknown, on any person directed by the court to be served.
- (3) The application may, if the court thinks fit, be heard in private.
- (4) The applicant and any person entitled to possession of the record are entitled to be heard on the application.

112. Decisions of court

- (1) For the purpose of deciding the application the court may have access to all of the information in the record.
- (2) If the court decides that all of the information is not privileged, the court must make the record available to be collected by the applicant.
- (3) If the court decides that all of the information is privileged, the court must make the record available to be collected by the person who is entitled to possession of the record.
- (4) If the court decides that some of the information is privileged, the court must make orders to enable the applicant to have access to the information in the record that is not privileged.

113. Forensic examinations on records

- (1) This section applies if —
 - (a) the court decides under section 112 that all or some of the information in a record is privileged; and
 - (b) the applicant has applied to be permitted to do a forensic examination on the record.
- (2) The court must make orders that enable the forensic examination to be done on the record and to ensure that any information in it that is privileged remains privileged.

114. Ancillary orders

After making a decision under section 112, the court may make any orders it thinks fit —

- (a) as to costs; and
- (b) as to securing the record, or suspending the operation of any orders made under this section, until an appeal against the decision is commenced and dealt with.

115. Proceedings part of criminal jurisdiction

Proceedings under this Subdivision are part of the court's criminal jurisdiction.

116. Appeals

Subject to the *Criminal Appeals Act 2004* Part 2, an appeal lies against a decision made by the court under this Subdivision.

Subdivision 3 — Return or disposal of seized things

117. Return or disposal of seized things

- (1) The CEO may authorise the return of any thing seized under this Part to —
 - (a) the owner or person entitled to the possession of the thing; or
 - (b) the person from whom the thing was seized.
- (2) The CEO may dispose of any thing seized under this Part if —
 - (a) the CEO has taken reasonable steps to return the thing to a person; and
 - (b) any of the following applies —
 - (i) the CEO has been unable to locate the person, despite making reasonable efforts;
 - (ii) the person has refused to take possession of the thing;
 - (iii) the CEO has contacted the person about the return of the thing and the person has not refused to take possession of the thing but has not taken possession of the thing within 1 month of the contact.
- (3) Subject to subsection (2), the CEO may dispose of the thing in any manner the CEO thinks appropriate, including selling the thing.

- (4) If a thing is sold under subsection (3), the CEO must credit the proceeds from the sale of the thing to the PM Area Account.

Division 6 — Prosecutions for offences

118. When prosecutions can be commenced

A prosecution of a person for an offence under this Act must be commenced within 2 years after the day on which the offence is alleged to have been committed.

Division 7 — Evidentiary provisions

119. Evidentiary certificates

- (1) A certificate may be issued under this section for the following purposes —
- (a) a prosecution for an offence under any written law;
 - (b) any proceedings under this Act.
- (2) The CEO may issue a certificate stating that a fact specified in the certificate appears in or is derived from —
- (a) the parking space register; or
 - (b) a document or written record kept or received by the CEO under this Act; or
 - (c) a document or written record kept or received in relation to an agreement made under section 131.
- (3) Without limiting subsection (2), the CEO may issue a certificate stating any of the following —
- (a) that on a specified date or during a specified period a person held or did not hold a parking space approval or pre-authorisation;
 - (b) that on a specified date a special purpose authorisation was refused, granted, varied, suspended or cancelled;

- (c) that on a specified date a parking space licence was refused, granted, renewed, varied, transferred, suspended or cancelled;
 - (d) that on a specified date a pre-authorisation was refused, granted, varied or cancelled;
 - (e) that on a specified date or during a specified period a parking space approval was subject to specified conditions;
 - (f) that on a specified date or during a specified period a pre-authorisation was subject to specified conditions;
 - (g) that a specified document was or was not lodged, or a specified fee was or was not paid, by a specified person on or by a specified date.
- (4) A certificate purporting to be issued under this section is evidence and, in the absence of evidence to the contrary, proof of any fact stated in the certificate.

120. Proof of certain matters not required in proceedings

In the absence of evidence to the contrary, proof is not required in any proceedings for an offence under this Act that the person by whom the prosecution was commenced was authorised to commence the prosecution.

121. Proof of appointments and signatures unnecessary

- (1) For the purposes of this Act, it is not necessary to prove the appointment, authorisation or designation of the CEO or an authorised officer.
- (2) For the purposes of this Act, a signature purporting to be the signature of the CEO or authorised officer is evidence and, in the absence of evidence to the contrary, proof of the signature it purports to be.

Division 8 — Infringement notices and *Criminal Procedure Act 2004*

122. Infringement notices and *Criminal Procedure Act 2004*

- (1) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section applies in relation to —
 - (a) the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act; and
 - (b) the effect of that Part.
- (2) The infringement notice must be served within 6 months after the day on which the alleged offence is believed to have been committed.
- (3) The *Criminal Procedure Act 2004* sections 11 to 13 do not apply to an alleged offence under this Act.
- (4) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

Part 6 — PM Area Account

123. Terms used

In this Part —

ancillary area has the meaning given in section 124;

contiguous means adjoining;

fundable project, in relation to the PM area or an ancillary area —

(a) means any of the following —

- (i) transport or accessibility infrastructure, projects or services in the PM area to promote a sustainable balance between different modes of transport;
- (ii) infrastructure, projects or services (not related to transport or accessibility) in the PM area to improve economic activity or urban amenity;
- (iii) infrastructure, projects or services of a type referred to in subparagraph (i) or (ii) in an ancillary area to the PM area;
- (iv) traffic management in the PM area;

but

(b) does not include an event of a sporting, cultural or other nature (other than traffic management for the event).

124. Ancillary area

- (1) The Minister may declare by written notice 1 or more areas to be an *ancillary area* to the PM area.
- (2) The Minister may make a declaration of an ancillary area under subsection (1) if —
 - (a) the ancillary area is outside but contiguous with the PM area; and
 - (b) a fundable project is funded in the PM area; and

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- (c) funding for a fundable project in the ancillary area is —
 - (i) necessary or convenient to complete the fundable project referred to in paragraph (b); and
 - (ii) of benefit to the PM area.
- (3) A declaration of an ancillary area under subsection (1) is subsidiary legislation for the purposes of the *Interpretation Act 1984*.

125. Infrastructure, projects or services

Infrastructure, projects or services referred to in this Part may include 1 or more of the following —

- (a) capital costs relating to the infrastructure, projects or services;
- (b) costs other than capital costs including running or administration costs relating to the infrastructure, projects or services.

126. PM Area Account

- (1) An account called the ***PM Area Account*** is to be established as an agency special purpose account under the *Financial Management Act 2006* section 16.
- (2) The following money must be credited to the PM Area Account —
 - (a) fees or other amounts payable or recovered under this Act; and
 - (b) money paid by way of modified penalties under an infringement notice; and
 - (c) any other amounts lawfully received, or made available, for the purposes of the PM Area Account.

- (3) Money standing to the credit of the PM Area Account may be debited from the account when applied for any of the following purposes —
- (a) in payment of costs of administration and enforcement of this Act;
 - (b) in payment of refunds allowable under this Act;
 - (c) in payment to fund 1 or more fundable projects approved by the Minister under section 127.
- (4) Without limiting the *Financial Management Act 2006* section 61, an annual report (the **annual report**) for a financial year prepared under that section by the accountable authority of the Department must contain information about the operation of the PM Area Account.
- (5) If money standing to the credit of the PM Area Account was applied during a financial year under subsection (3), the annual report for the financial year must include details of how the money was applied.

127. Approval by Minister for payments from PM Area Account

- (1) The Minister may approve money standing to the credit of the PM Area Account to be applied in payment to fund 1 or more of the following —
- (a) a fundable project in the PM area;
 - (b) a fundable project in an ancillary area to the PM area.
- (2) Before giving approval under subsection (1), the Minister must be satisfied that there has been consultation with each local government of each local government district in which the fundable projects are, or are to be, carried out.

Part 7 — Regulations and parking policy

Division 1 — Regulations

128. Regulations

- (1) The Governor may make regulations prescribing matters that are —
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made in relation to the following —
 - (a) fees payable in relation to any matter under this Act including fees that include amounts greater than necessary for cost recovery or amounts to contribute to the PM Area Account for funding current or future fundable projects under Part 6;
 - (b) dealing with the refund of overpaid amounts of fees;
 - (c) providing that a failure to comply with a regulation is an offence and providing for a penalty not exceeding a fine of \$20 000;
 - (d) providing that any information required to be given under this Act may be required to be verified by statutory declaration;
 - (e) providing for conditions to which parking space approvals and pre-authorisations are subject, including conditions referred to in sections 25(4), 30(3) and 35(3);
 - (f) providing for review of decisions made under this Act, including review by the State Administrative Tribunal;

- (g) providing for arrangements for changes to the boundary of the PM area, including transitional exemptions that apply for the PM area.

Example for this subsection:

For the purposes of paragraph (g) — that parking a relevant vehicle in a parking space on land in a new part of the PM area is an exempt circumstance for a period of time.

- (3) Without limiting subsection (1), regulations may adopt the text of the parking policy —
 - (a) wholly or in part or as modified by the regulations; and
 - (b) as it exists at a particular date or as in force from time to time.

Division 2 — Parking policy

129. Parking policy

- (1) In this section —

contributing local government means each local government of each local government district in which there are parking spaces for which there is 1 or more contributing parking space licences in force;

contributing parking space licence means a parking space licence for which licence fees are payable, or have been paid, under this Act for the current licence period.
- (2) The Minister may approve a policy (the ***parking policy***) for managing parking spaces, and their use, in the PM area.
- (3) A reference under this Act to the parking policy is a reference to —
 - (a) if a version of the policy is specified — the specified version of the policy; or
 - (b) otherwise — the policy as in force from time to time.

Example for this subsection:

For the purposes of paragraph (a) — the Act specifies that the parking policy is the version that is in force at the time a relevant development approval is granted.

- (4) Without limiting subsection (2), the parking policy may include provision in relation to the following —
- (a) information or documents to be provided with an application under Part 3;
 - (b) principles and criteria for assessing an application under Part 3;
 - (c) restrictions or prohibitions on the provision of parking spaces, including parking spaces of different categories, under a parking space approval;
 - (d) allowances or requirements for the provision of parking spaces, including parking spaces of different categories, under a parking space approval;
 - (e) use and management of parking spaces of different categories under a parking space approval;
 - (f) different provisions for parking spaces in different locations.
- (5) Before approving the parking policy, the Minister must consult with —
- (a) the Minister principally responsible for the administration of the *Environmental Protection Act 1986*; and
 - (b) the Minister principally responsible for the administration of the *Planning and Development Act 2005*; and
 - (c) if the policy is to apply for managing parking spaces, or their use, in the PM area which is in, or part of which is in, 1 or more local government districts — each contributing local government for each of the local government districts.

- (6) The CEO must make the parking policy available for inspection by members of the public on the Department's website.
- (7) The parking policy commences at the beginning of —
 - (a) the day after the day on which the policy is made available for inspection under subsection (6); or
 - (b) a later day specified in the policy.
- (8) The parking policy is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (9) The *Interpretation Act 1984* sections 43 (other than subsection (6)) and 44 and Part VIII apply to the parking policy as if it were subsidiary legislation.

Part 8 — Miscellaneous

Division 1 — Delegation

130. Delegation

- (1) The CEO may delegate to a person any power or duty of the CEO under another provision of this Act.
- (2) The delegation must be in writing signed by the CEO.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the CEO to perform a function through an officer or agent.

Division 2 — Agreements for performance of functions

131. CEO may enter into agreements for performance of functions

- (1) In this section —
chief employee has the meaning given in the *Public Sector Management Act 1994* section 3(1);
responsible Minister, in relation to a prescribed Act, means the Minister principally responsible for the administration of the prescribed Act.
- (2) With the approval of the Minister, the CEO may enter into an agreement providing for the CEO's functions under this Act that are described in the agreement to be performed on behalf of the CEO.

- (3) The agreement may be with —
 - (a) if approved by the Minister principally responsible for the administration of the *Taxation Administration Act 2003* — the Commissioner of State Revenue appointed in accordance with section 6 of that Act; or
 - (b) if approved by the responsible Minister — the chief executive officer or chief employee of the agency principally assisting in the administration of a prescribed Act.
- (4) A function described in the agreement must be performed —
 - (a) in accordance with the agreement; and
 - (b) on and subject to the terms of the agreement.
- (5) If the performance of a function is dependent on the opinion, belief or state of mind of the CEO, it may be performed under the agreement on the opinion, belief or state of mind of the person or body with whom the agreement is made or another person provided for in the agreement.
- (6) For the purposes of any written law, an act or thing done by, to, by reference to, or in relation to, a person or body in connection with the performance by that person or body under the agreement of a function of the CEO is as effectual as if it had been done by, to, by reference to, or in relation to, the CEO.

Division 3 — Confidentiality and information sharing

132. Confidentiality

- (1) A person who is or has been engaged in the performance of functions under this Act, including under an agreement made under section 131, must not, directly or indirectly, disclose or make use of any information obtained in the course of duty except —
 - (a) for the purpose of, or in connection with, performing a function under this Act; or

- (b) as required or allowed under this Act or another written law; or
- (c) for the purposes of any proceedings arising under this Act; or
- (d) with the written consent of the person to whom the information relates; or
- (e) in prescribed circumstances.

Penalty for this subsection: a fine of \$12 000.

- (2) Subsection (1) does not extend to the disclosure or use of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

133. Information sharing

- (1) In this section —

chief employee has the meaning given in the *Public Sector Management Act 1994* section 3(1);

guidelines means guidelines issued under subsection (7);

information sharing agency means any of the following —

- (a) the department of the Public Service principally assisting in the administration of the *Environmental Protection Act 1986*;
- (b) the department of the Public Service principally assisting in the administration of the *Land Administration Act 1997*;
- (c) the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5(1);
- (d) the department of the Public Service principally assisting in the administration of the *Planning and Development Act 2005*;

- (e) the department of the Public Service principally assisting in the administration of the *Taxation Administration Act 2003*;
- (f) the Police Force of Western Australia;
- (g) if the PM area or part of the PM area is in 1 or more local government districts — each local government for each of the local government districts;
- (h) a prescribed agency;

information sharing officer means the CEO or a person designated under subsection (2);

officer, in relation to an information sharing agency —

- (a) means an officer or person employed or engaged in the information sharing agency; and
- (b) if the information sharing agency is the Police Force of Western Australia — includes a member of the Police Force of Western Australia;

public agency means —

- (a) an agency; or
- (b) an organisation as defined in the *Public Sector Management Act 1994* section 3(1);

relevant information —

- (a) means information relevant to the administration or enforcement of this Act; and
 - (b) includes information on the parking space register.
- (2) The CEO may, in writing, designate a person employed in the Department as an information sharing officer for the purposes of this section.
- (3) An information sharing officer may, in accordance with the guidelines, disclose relevant information to an officer of an information sharing agency.

- (4) An information sharing officer may, in accordance with the guidelines, request a chief executive officer or chief employee of a public agency or an information sharing agency in which relevant information is held to disclose the information to the information sharing officer.
- (5) Information may be disclosed under subsection (3), or in compliance with a request under subsection (4), despite any written law relating to confidentiality or secrecy.
- (6) If information is disclosed, in good faith, under subsection (3), or in compliance with a request under subsection (4) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (7) The CEO must issue guidelines as to the disclosure of information under subsection (3) and the requesting of information under subsection (4).
- (8) The regulations may include provisions about —
 - (a) receiving and storing information disclosed for the purposes of this Act; and
 - (b) restricting access to such information.

134. Requests for information about parking space approvals

- (1) In this section —
relevant parking approval information means information about a parking space approval other than information that could reasonably be expected to lead to the identification of any individual to whom it relates.

- (2) A responsible occupier of land in the PM area may request that the CEO discloses relevant parking approval information in relation to the land.
- (3) The CEO may disclose relevant parking approval information to a responsible occupier in relation to a request made under subsection (2).
- (4) If information is disclosed, in good faith, under subsection (3) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

Division 4 — Power to waive or write off liabilities

135. Waiving amounts payable

- (1) The CEO may waive the payment of an amount payable under this Act by a person up to a prescribed limit in any financial year.
- (2) If the CEO waives the payment of an amount payable under this Act, the liability to make the payment is extinguished.

136. Writing off liabilities

- (1) The CEO may write off a liability to pay an amount under this Act, if satisfied that action or further action to recover the amount is impracticable or unwarranted.
- (2) Writing off a liability to pay an amount does not —
 - (a) extinguish the liability; or

- (b) preclude the CEO from taking later action to recover the amount of the liability.

137. Powers subject to *Financial Management Act 2006*

This Division is to be read subject to the *Financial Management Act 2006*.

138. No action to compel waivers or write offs

No action can be brought in a court to compel the CEO to waive payment of an amount or to write off a liability for an amount.

139. Waiving or writing off tax

To the extent that an amount under this Act (including a fee determined under regulations made under this Act) is a tax, the amount may be waived under section 135 or written off under section 136.

Division 5 — Recovery of amounts payable under Act

140. Joint and several liability for amounts payable under Act

- (1) If an amount (other than a fine or modified penalty) is payable by an owner of land under this Act in relation to land owned by more than 1 owner, each owner of the land is jointly and severally liable for the amount except as otherwise provided under this Act.
- (2) If an amount (other than a fine or modified penalty) is payable under this Act by an approval holder in relation to a parking space approval held by more than 1 approval holder, each approval holder is jointly and severally liable for the amount except as otherwise provided under this Act.
- (3) If an amount (other than a fine or modified penalty) is payable under this Act by a pre-authorisation holder in relation to a pre-authorisation held by more than 1 pre-authorisation holder,

each pre-authorisation holder is jointly and severally liable for the amount except as otherwise provided under this Act.

- (4) This section does not affect the right of a person who pays an amount under this Act to recover contributions from a person jointly liable for the amount.

141. Liability continues when person ceases to be approval holder or pre-authorisation holder

If a person was liable for an amount because they were an approval holder or pre-authorisation holder, the person remains liable for the amount after they cease to be an approval holder or pre-authorisation holder until the amount is paid.

142. Recovery of costs

If a person is liable for an amount under this Act, the person is also liable for —

- (a) any legal costs incurred by the CEO in relation to proceedings for the recovery of the amount; and
- (b) any other prescribed costs.

143. Recovery of amounts payable under Act

The amount of any of the following is recoverable by the CEO in a court of competent jurisdiction as a debt due to the State —

- (a) any fees payable under this Act;
- (b) an amount referred to in section 142(a) and (b).

Division 6 — Other matters

144. Term used: responsible person

In this Division —

responsible person means an authorised officer, the CEO or the Minister.

145. Fees

The powers in this Act in relation to fees are in addition to, and do not limit the operation of, the *Interpretation Act 1984* sections 43, 45 and 45A.

146. Functions under Act when land has more than 1 owner

- (1) If a responsible person is required or permitted to perform a function under this Act in relation to an owner of land, the responsible person is required or permitted to perform the function in relation to each owner of the land.
- (2) When performing a function under section 22, 23, or 24, a responsible person may take account of a consideration that applies to a relevant owner of land referred to in that section in relation to each owner of the land.

147. Functions under Act when parking space approvals or pre-authorisations are held by more than 1 person

- (1) If a responsible person is required or permitted to perform a function under this Act in relation to a parking space approval, or an approval holder of a parking space approval, the responsible person is required or permitted to perform the function in relation to each approval holder of the parking space approval.
- (2) When performing a function under section 38, 43, 44, 61 or 66, a responsible person may take account of a consideration that applies to a relevant approval holder referred to in that section in relation to each approval holder of the parking space approval.
- (3) If a responsible person is required or permitted to perform a function under this Act in relation to a pre-authorisation, or a pre-authorisation holder of a pre-authorisation, the responsible person is required or permitted to perform the function in

relation to each pre-authorisation holder of the pre-authorisation.

- (4) When performing a function under section 48 or 67, a responsible person may take account of a consideration that applies to a relevant pre-authorisation holder referred to in that section in relation to each pre-authorisation holder of the pre-authorisation.

148. Parking space approvals and pre-authorisations not personal property for purposes of *Personal Property Securities Act 2009* (Cwlth)

If a parking space approval or pre-authorisation is transferable by the holder as described in the definition of *licence* in the *Personal Property Securities Act 2009* (Commonwealth) section 10, the approval or pre-authorisation is declared not to be personal property for the purposes of that Act.

149. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act (whether or not the function is performed under an agreement referred to in section 131).
- (2) The Minister and the State are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

150. Giving documents

- (1) A document required or authorised to be given under this Act by the CEO or an authorised officer to a person may be given to the person by —
- (a) giving it to the person personally; or
 - (b) leaving it at the person's place of residence or business; or
 - (c) sending it by prepaid post (including document exchange) addressed to the person —
 - (i) in accordance with the *Interpretation Act 1984* section 75(1); or
 - (ii) at an address appearing on recent correspondence addressed by or on behalf of the person to the CEO or authorised officer or otherwise notified to the CEO or authorised officer or published by the person; or
 - (iii) at an address shown in the rate record kept by a local government under the *Local Government Act 1995* as the address for the service of rate notices under that Act on the person;or
 - (d) faxing it to a fax number, or emailing it to an email address —
 - (i) provided by the person or appearing on recent correspondence addressed by or on behalf of the person to the CEO or authorised officer; or
 - (ii) otherwise notified to the CEO or authorised officer by the person; or
 - (iii) published by the person;or
 - (e) communicating it in some other way agreed with the person; or

- (f) in the case of a corporation or of an association of persons (whether incorporated or not) — by delivering or leaving the document or sending it by prepaid post (including document exchange), addressed in each case to the corporation or association at its principal place of business, or principal office, in the State.
- (2) The use of a particular method for giving a document to a person does not prevent the giving of other documents to the same person in a different way.

151. Time when documents given

- (1) In the absence of proof to the contrary, a document that is —
 - (a) faxed or emailed to a person in accordance with section 150(1)(d) is taken to be given on the next business day after the day on which the document was faxed or emailed; or
 - (b) delivered to or left for a person in accordance with section 150(1)(b) or (f) is taken to be given on the next business day after the day on which the document was delivered or left.
- (2) In the absence of proof to the contrary, a document that is sent by prepaid post —
 - (a) to an address within Australia, is taken to be given at the time the document would have been delivered in the ordinary course of the post; or
 - (b) to an address outside Australia, is taken to be given on the day that is 11 business days after the document was posted.

152. Parking space approvals, pre-authorisations and other matters take effect or commence at beginning of day

Without limiting the *Interpretation Act 1984* Part VIII, if any of the following instruments or decisions under this Act takes effect on a day, or commences on a day, the instrument or

decision takes effect or commences at the beginning of the day —

- (a) a parking space approval;
- (b) a pre-authorisation;
- (c) a renewal of a parking space licence under section 38;
- (d) a variation of a parking space licence granted under section 43 or 44(8);
- (e) a variation of a pre-authorisation granted under section 48(5);
- (f) a variation of a special purpose authorisation granted under section 52;
- (g) a transfer of a parking space licence under section 57(2);
- (h) a suspension order under section 61.

153. Parking space approvals, pre-authorisations and suspension orders expire, end or are cancelled at end of day

Without limiting the *Interpretation Act 1984* Part VIII, if any of the following instruments or orders under this Act expires or ends on a day or is cancelled on a day, the instrument or order expires, ends or is cancelled at the end of the day —

- (a) a parking space approval;
- (b) a pre-authorisation;
- (c) a suspension order under section 61.

154. Variations cannot have prejudicial effect in certain cases

A variation of a parking space approval or a pre-authorisation cannot take effect under section 46, 50 or 54 on a day earlier than the day after the day on which a notice referred to in that section is given to the approval holder or pre-authorisation holder unless —

- (a) the approval holder or pre-authorisation holder consents;
- or

- (b) the variation is not prejudicial to the approval holder or pre-authorisation holder.

155. Approved forms

- (1) If an approved form may or must be given to the CEO under this Act, the CEO may approve the form.
- (2) The CEO must make approved forms available upon request to a person with an interest in land in the PM area.

156. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which this section comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

Part 9 — Repeals

157. *Perth Parking Management Act 1999* repealed

The *Perth Parking Management Act 1999* is repealed.

158. *Perth Parking Management (Taxing) Act 1999* repealed

The *Perth Parking Management (Taxing) Act 1999* is repealed.

159. *Perth Parking Management Regulations 1999* repealed

The *Perth Parking Management Regulations 1999* are repealed.

160. Perth Parking Policies repealed

(1) In this section —

Perth Parking Policies means each policy made under the *Perth Parking Management Act 1999* section 5.

(2) The Perth Parking Policies are repealed.

Part 10 — Transitional provisions

Division 1 — Preliminary

161. Terms used

In this Part —

CEO issued licence means a parking bay licence issued —

- (a) under section 9(1) of the repealed Act; and
- (b) without approval from the Minister under section 9(3) of the repealed Act;

commencement day means the day on which section 3 comes into operation;

Minister approved licence means a parking bay licence issued —

- (a) under section 9 of the repealed Act; and
- (b) with approval from the Minister under section 9(3) of the repealed Act;

Perth parking management area means the area prescribed under section 6 of the repealed Act;

Perth Parking Policy means the relevant policy made under the *Perth Parking Management Act 1999* section 5;

repealed Act means the *Perth Parking Management Act 1999* as in force immediately before commencement day;

repealed taxing Act means the *Perth Parking Management (Taxing) Act 1999* as in force immediately before commencement day.

162. Application of *Interpretation Act 1984* not affected

Except as provided in this Part and in any transitional regulations made under this Part, this Part and any transitional regulations made under this Part do not affect the application of the *Interpretation Act 1984* in relation to the repeals in Part 9.

Division 2 — Parking bay licences under repealed Act

Subdivision 1 — Parking bay licences to become transitional licences

163. CEO issued licences

- (1) A person who, immediately before commencement day, held a CEO issued licence (a *pre-commencement licence*) is taken to hold a parking space licence (a *transitional licence*) granted under section 22.
- (2) A person to whom subsection (1) applies is taken to hold the transitional licence —
 - (a) for the remainder of the period that would have applied to the person's pre-commencement licence and subject to any earlier cancellation under this Act; and
 - (b) otherwise on the same conditions as applied immediately before commencement day to the person's pre-commencement licence; and
 - (c) subject to any prescribed conditions that apply to the transitional licence under section 25(1)(a); and
 - (d) subject to any instalment arrangement under section 11(2) of the repealed Act for the fee for the person's pre-commencement licence.
- (3) If an instalment is payable under an arrangement referred to in subsection (2)(d) and the instalment is not paid by the due date, the transitional licence may —
 - (a) subject to Part 3 Division 10, be suspended under section 61(1)(e); or
 - (b) subject to Part 3 Division 11, be cancelled under section 66(1)(e).
- (4) Despite section 25(5), a prescribed condition may take effect immediately in relation to a transitional licence.

- (5) The remainder of the period referred to in subsection (2)(a) is taken to be the period for which the transitional licence is granted under section 26.
- (6) The conditions referred to in subsection (2)(b) are taken to be conditions under section 25(1)(b)(i).

164. Minister approved licences

- (1) A person who, immediately before commencement day, held a Minister approved licence (a *pre-commencement licence*) is taken to hold a parking space licence (a *transitional licence*) granted under section 24.
- (2) A person to whom subsection (1) applies is taken to hold the transitional licence —
 - (a) for the remainder of the period that would have applied to the person's pre-commencement licence and subject to any earlier cancellation under this Act; and
 - (b) otherwise on the same conditions as applied immediately before commencement day to the person's pre-commencement licence; and
 - (c) subject to any prescribed conditions that apply to the transitional licence under section 25(1)(a); and
 - (d) subject to any instalment arrangement under section 11(2) of the repealed Act for the fee for the person's pre-commencement licence.
- (3) If an instalment is payable under an arrangement referred to in subsection (2)(d) and the instalment is not paid by the due date, the transitional licence may —
 - (a) subject to Part 3 Division 10, be suspended under section 61(1)(e); or
 - (b) subject to Part 3 Division 11, cancelled under section 66(1)(e).

- (4) Despite section 25(5), a prescribed condition may take effect immediately in relation to a transitional licence.
- (5) The remainder of the period referred to in subsection (2)(a) is taken to be the period for which the transitional licence is granted under section 26.
- (6) The conditions referred to in subsection (2)(b) are taken to be conditions under section 25(1)(b)(ii).

165. Expiring CEO issued licences

- (1) In this section —

expiring CEO issued licence means a CEO issued licence that —

- (a) was to expire at the end of the day before commencement day; and
 - (b) for which an application has been made before commencement day for renewal under section 16(1) of the repealed Act; and
 - (c) the CEO had decided before commencement day to renew under section 16(3) of the repealed Act for a further term (the *renewal term*).
- (2) An expiring CEO issued licence must —
 - (a) be treated as if it were in force immediately before commencement day; and
 - (b) be dealt with under section 163 as a pre-commencement licence.
- (3) For the purposes of section 163(2)(a), the remainder of the term that would have applied to the pre-commencement licence that is an expiring CEO issued licence is taken to be the remainder of the renewal term of the licence.

166. Expiring Minister approved licences

(1) In this section —

expiring Minister approved licence means a Minister approved licence —

- (a) that was to expire at the end of the day before commencement day; and
- (b) for which an application had been made before commencement day for renewal under section 16(1) of the repealed Act; and
- (c) for which a decision had been made before commencement day to renew under section 16(3) of the repealed Act for a further term (the *renewal term*).

(2) An expiring Minister approved licence must —

- (a) be treated as if it were in force immediately before commencement day; and
- (b) be dealt with under section 164 as a pre-commencement licence.

(3) For the purposes of section 164(2)(a), the remainder of the term that would have applied to the pre-commencement licence that is an expiring Minister approved licence is taken to be the remainder of the renewal term of the licence.

Subdivision 2 — Treatment of relevant transitional licences

167. Term used: relevant transitional licence

In this Subdivision —

relevant transitional licence means —

- (a) a transitional licence referred to in section 163(1) or 164(1); or
- (b) a parking space licence that was a transitional licence referred to in section 163(1) or 164(1) before it was

renewed, varied or transferred on or after
commencement day.

168. Renewal of relevant transitional licences

In relation to a renewal of a relevant transitional licence, a reference to an application in section 38(3)(a) is taken to include any of the following —

- (a) an application under section 8 of the repealed Act for the parking bay licence that became the relevant transitional licence;
- (b) an application under section 14 of the repealed Act for a transfer of the parking bay licence that became the relevant transitional licence;
- (c) an application under section 15 of the repealed Act for a variation of the parking bay licence that became the relevant transitional licence;
- (d) an application under section 16 of the repealed Act for a renewal of the parking bay licence that became the relevant transitional licence.

169. Suspending relevant transitional licences

In relation to a suspension of a relevant transitional licence, a reference to an application in section 61(1)(a) and (b) is taken to include any of the following —

- (a) an application under section 8 of the repealed Act for the parking bay licence that became the relevant transitional licence;
- (b) an application under section 14 of the repealed Act for a transfer of the parking bay licence that became the relevant transitional licence;
- (c) an application under section 15 of the repealed Act for a variation of the parking bay licence that became the relevant transitional licence;

- (d) an application under section 16 of the repealed Act for a renewal of the parking bay licence that became the relevant transitional licence.

170. Cancelling relevant transitional licences

In relation to a cancellation of a relevant transitional licence, a reference to an application in section 66(1)(a) and (b) is taken to include any of the following —

- (a) an application under section 8 of the repealed Act for the parking bay licence that became the relevant transitional licence;
- (b) an application under section 14 of the repealed Act for a transfer of the parking bay licence that became the relevant transitional licence;
- (c) an application under section 15 of the repealed Act for a variation of the parking bay licence that became the relevant transitional licence;
- (d) an application under section 16 of the repealed Act for a renewal of the parking bay licence that became the relevant transitional licence.

Division 3 — Applications under repealed Act

171. Undecided applications for parking bay licences if not approved by Minister

- (1) In this section —
undecided, in relation to an application for a parking bay licence under the repealed Act, means the licence applied for has not been —
 - (a) issued under section 9 of the repealed Act; or
 - (b) approved by the Minister under section 9(3) of the repealed Act.

- (2) An application under section 8 of the repealed Act for a parking bay licence that is undecided before commencement day (including an undecided application for which a recommendation has been made under section 9(2) of the repealed Act) lapses on commencement day.
- (3) If an application for a parking bay licence lapses under subsection (2), the applicant must be refunded any amount paid with the application for the licence from the PM Area Account.

172. Parking bay licences approved by Minister

A parking bay licence approved by the Minister under the section 9(3) of the repealed Act but not issued by the CEO before commencement day must —

- (a) be given effect to by the CEO under section 9(3) of the repealed Act as if the repealed Act (and any regulations and Perth Parking Policy made under that Act) and the repealed taxing Act were in force; and
- (b) be treated, when given effect to, as if it were a Minister approved licence in force immediately before commencement day and dealt with under section 164 as a pre-commencement licence.

173. Undecided applications to transfer parking bay licences

- (1) An application under section 14(3) of the repealed Act received before commencement day but undecided before commencement day —
 - (a) is taken to be an application under section 56; and
 - (b) must be decided under this Act as if it were an application received within the 20 business days referred to in section 56(1)(a).
- (2) The CEO may require that the applicant —
 - (a) update the details of the application to meet the requirements of this Act; or

- (b) provide any further relevant information; and
 - (c) pay any licence fees referred to in section 57(2)(b).
- (3) If a parking space licence is transferred under section 57(2) in relation to an application referred to in subsection (1), despite section 59(1)(a) the transfer of parking space licence must be taken to take effect no earlier than commencement day.

174. Undecided applications for variation of parking bay licences

- (1) An application under section 15(1) of the repealed Act received before commencement day but undecided before commencement day lapses on commencement day.
- (2) If an application lapses under subsection (1), the applicant must be refunded any amount paid with the application from the PM Area Account.

175. Undecided applications for renewal of parking bay licences

- (1) An application under section 16(1) of the repealed Act received before commencement day but undecided before commencement day lapses on commencement day.
- (2) If an application lapses under subsection (1), the applicant must be refunded any amount paid with the application from the PM Area Account.

Division 4 — Transfers

176. Transfers

- (1) Despite sections 56(1) and 66(1)(g)(i), a person who became a new owner of land in the Perth parking management area within the 28 days, and who did not apply to transfer the licence under section 14(3) of the repealed Act, before commencement day —
 - (a) may apply to transfer the parking space licence that relates to the land under section 56 within 20 business days after commencement day; and

- (b) the cancellation under section 66(1)(g)(i) may only be exercised after 20 business days after commencement day in relation to the licence.
- (2) If a parking space licence referred to in subsection (1) is transferred under section 57(2), despite section 59(1)(a) the transfer of the parking space licence must be taken to take effect no earlier than commencement day.

Division 5 — Suspensions and cancellations

177. Parking bay licences suspended

- (1) A parking bay licence that is subject to suspension under section 13 of the repealed Act immediately before commencement day is —
 - (a) taken to be a parking bay licence in force immediately before commencement day; and
 - (b) to be treated as a pre-commencement licence under —
 - (i) if the licence is a CEO issued licence — section 163; or
 - (ii) if the licence is a Minister approved licence — section 164.
- (2) The transitional licence that results from the pre-commencement licence referred to in subsection (1)(b)(i) or (ii) —
 - (a) is taken to be suspended under a suspension order made under section 61(1); and
 - (b) subject to subsection (3), must be dealt with under this Act.
- (3) Section 65(2) does not apply to a suspended transitional licence referred to in subsection (2).

178. Parking bay licences cancelled

For the purposes of sections 22(2)(c), 23(2)(d), 24(2)(e), 29(2)(e) and 43(2)(d), a reference to a parking space approval cancelled under section 66(1)(a), (b), (c) or (d) is taken to include a reference to a parking bay licence cancelled under section 13 of the repealed Act.

Division 6 — Infringement notices and investigations

179. Infringement notices

- (1) An infringement notice given under section 19 of the repealed Act that has not been withdrawn, or for which the modified penalty had not been paid, before commencement day —
 - (a) must be dealt with under the repealed Act as if the repealed Act (and any regulations and Perth Parking Policy made under that Act) and the repealed taxing Act were in force; and
 - (b) may be withdrawn under the repealed Act.
- (2) Despite subsection (1), a modified penalty under an infringement notice given under the repealed Act that was not paid before commencement day must be credited to the PM Area Account.

180. Investigations

Any information or document gathered under the exercise of a power under section 21 of the repealed Act before commencement day may be kept and used under Part 5 of this Act for a purpose in referred to in section 80.

Division 7 — Finance and Perth Parking Licensing Account

181. Parking bay licence fees

- (1) A parking bay licence fee that was payable under the repealed Act but has not been paid before commencement day (including

an instalment of a licence fee) is taken to be a fee payable under this Act and must be dealt with under this Act.

- (2) However, if an instalment arrangement referred to in section 163(2)(d) or 164(2)(d) is in place for a fee for a parking space licence, the licence must not be cancelled under section 66(1)(e) or suspended under section 61(1)(e) unless the payment of the instalment has not been made.
- (3) Any parking bay licence fees paid under the repealed Act that require refunding may be refunded under this Act from the PM Area Account.

182. Perth Parking Licensing Account

- (1) In this section —
Perth Parking Licensing Account means the account established under section 23(1) of the repealed Act as an agency special purpose account under the *Financial Management Act 2006* section 16.
- (2) The Perth Parking Licensing Account is continued in existence and is taken to be established under section 126(1).
- (3) Money owing, or received but not yet credited, to the Perth Parking Licensing Account immediately before commencement day under section 23(2) of the repealed Act may be credited to the PM Area Account on and after commencement day.
- (4) Money standing to the credit of the Perth Parking Licensing Account immediately before commencement day must be dealt with under this Act as if it were money standing to the credit of the PM Area Account.

Division 8 — Parking policy

183. Parking policy when development approvals granted before commencement day

Despite sections 22(4), 34(3), 43(6) and 52(5), if the development approval is granted on or after the commencement of section 3 of the repealed Act but before commencement day, the parking policy in force is taken to be the Perth Parking Policy in force at the time the latest relevant development approval is granted.

184. No parking policy when development approvals granted

- (1) Despite section 22(4), if the development approval is granted before the commencement of section 3 of the repealed Act, the parking policy is taken to be the parking policy in force at the time the decision to grant the parking space licence is made.
- (2) Despite section 34(3), if the development approval is granted before the commencement of section 3 of the repealed Act, the parking policy is taken to be the parking policy in force at the time the decision to grant the special purpose authorisation is made.
- (3) Despite section 43(6), if the development approval is granted before the commencement of section 3 of the repealed Act, the parking policy is taken to be the parking policy in force at the time the decision to grant the variation of the parking space licence is made.
- (4) Despite section 52(5), if the development approval is granted before the commencement of section 3 of the repealed Act, the parking policy is taken to be the parking policy in force at the time the decision to grant the variation of the special purpose authorisation is made.

Division 9 — Ownership of land and responsible occupiers

185. Ownership of land

This Act applies on and after commencement day in relation to an owner of land whether or not they became the owner of the land before commencement day.

186. Responsible occupiers

- (1) This Act applies on and after commencement day in relation to a responsible occupier of land whether or not they became the responsible occupier before commencement day.
- (2) This Act applies on and after commencement day in relation to a lease of, or licence to occupy, land whether or not the lease or licence was entered into before commencement day.

Division 10 — Permitting relevant vehicles to park

187. Permitting relevant vehicles to park

Sections 11, 14, 15 and 18 apply on and after commencement day whether or not a person permitted a relevant vehicle to be parked before commencement day.

Division 11 — Exercising powers before commencement

188. Exercising powers before commencement that rely on instruments that have not commenced

- (1) If a power is exercised under the *Interpretation Act 1984* section 25 (other than a power to make an instrument under Part 7 of this Act), the following that have been made at the time of the exercise of the power are taken to have commenced for the purposes of exercising the power —
 - (a) the parking policy;
 - (b) regulations made under section 128;
 - (c) an approved form.

- (2) For the purposes of the *Interpretation Act 1984* section 25(a), a reference to an instrument is taken to also include all of the following —
 - (a) a parking space approval;
 - (b) a pre-authorisation;
 - (c) an approved form.
- (3) The CEO may give a notice before the day on which section 3 comes into operation to a person who the CEO considers may be a parking space licence holder whose licence may be renewed under Part 3 Division 5 on or after commencement day advising the person of a licence fee for renewal.
- (4) If a power is exercised under the *Interpretation Act 1984* section 25 to make regulations under section 128(3), the parking policy is taken to have commenced for the purposes of exercising the power.
- (5) If a power is exercised under the *Interpretation Act 1984* section 25 to make the parking policy and the parking policy refers to the regulations made under section 128, the regulations are taken to have commenced for the purposes of exercising the power.

Division 12 — Transitional regulations

189. Transitional regulations

- (1) In this section —
 - publication day**, for transitional regulations, means the day on which the transitional regulations are published under the *Interpretation Act 1984* section 41;
 - specified**, in relation to transitional regulations, means specified or described in the transitional regulations;

transitional matter —

- (a) means a matter that needs to be dealt with for the purpose of effecting the transition required because of the enactment of this Act; and
- (b) includes a saving or application matter;

transitional regulations means regulations made under subsection (2).

- (2) If there is no sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing matters —
 - (a) required to be prescribed for the purpose of dealing with the transitional matter; or
 - (b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.
- (3) Transitional regulations may provide that specified provisions of this Act —
 - (a) do not apply to or in relation to a specified matter; or
 - (b) apply with specified modifications to or in relation to a specified matter.
- (4) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than publication day for the transitional regulations but not earlier than commencement day, the transitional regulations have effect according to their terms.
- (5) If transitional regulations contain a provision referred to in subsection (4), the provision does not operate so as to —
 - (a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day for the transitional regulations; or

- (b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day for the transitional regulations.

Part 11 — *Sentencing Act 1995* amended

190. Act amended

This Part amends the *Sentencing Act 1995*.

191. Schedule 1 amended

In Schedule 1 insert in alphabetical order:

<i>Perth Parking</i>	PM Area Account
<i>Management Act 2024</i>	

Part 12 — *Perth Parking Management Act 1999* amended

192. Act amended

This Part amends the *Perth Parking Management Act 1999*.

193. Section 23 amended

(1) Before section 23(1) insert:

(1A) In this section —

fundable project, in relation to the Perth parking management area —

(a) means any of the following —

- (i) transport or accessibility infrastructure, projects or services within the area to promote a sustainable balance between different modes of transport;
- (ii) infrastructure, projects or services (not related to transport or accessibility) within the area to improve economic activity or urban amenity;
- (iii) traffic management within the area;

but

- (b) does not include an event of a sporting, cultural or other nature (other than traffic management for the event).

(2) In section 23(3):

(a) in paragraph (b) delete “administration.” and insert:

administration; or

(b) after paragraph (b) insert:

(c) for the purpose of a fundable project, or a purpose connected with a fundable project, within the Perth parking management area.

(3) After section 23(3) insert:

(4) Infrastructure, projects or services referred to in this section may include 1 or more of the following —

- (a) capital costs relating to the infrastructure, projects or services;
- (b) costs other than capital costs including running or administration costs relating to the infrastructure, projects or services.

194. Part 5 inserted

After section 26 insert:

Part 5 — Transitional provision for *Perth Parking Management Act 2024*

27. Money credited to Perth Parking Licensing Account before commencement day may be used for fundable project

(1) In this section —

commencement day means the day on which the *Perth Parking Management Act 2024* Part 12 comes into operation.

- (2) Section 23(1A), (3)(c) and (4) apply in relation to an amount charged to the Perth Parking Licensing Account whether or not the amount was credited to the Account before or after commencement day.

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Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
administrator	5(1)
advertise	4
agency	4
ancillary area	123, 124(1)
annual report	126(4)
applicant	4
approval holder	4
approved form	4
assent day	2
authorisation holder	4
authorised officer	4
business	95
business day	4
business record	95
cancellation grounds	68
category	4, 8
CEO	4
CEO issued licence	161
chief employee	131(1), 133(1)
commencement day	161
common property	5(1)
community corporation	5(1)
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