

**Version No. 006**  
**Congestion Levy Act 2005**  
**No. 74 of 2005**

Version incorporating amendments as at 1 December 2009

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**Congestion Levy Act 2005**  
**No. 74 of 2005**

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**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1 Purpose**

The purpose of this Act is to impose a levy on long stay parking spaces in the central business district and inner Melbourne to reduce traffic congestion and to amend the **Taxation Administration Act 1997**.

**2 Commencement**

This Act comes into operation on 1 January 2006.

**3 Definitions**

(1) In this Act—

*car park* means premises or part of premises in the levy area that contain one or more parking spaces;

*CPI adjusted levy* has the meaning given in section 11;

*domestic partner* of a person means—

- (a) a person who is in a registered domestic relationship with the person; or
- (b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

S. 3(1) def. of *domestic partner* inserted by No. 68/2007 s. 3(1), substituted by No. 4/2009 s. 37(Sch. 1 item 5.1).

S. 3(1) def. of  
GST  
inserted by  
No. 68/2007  
s. 3(1).

*exempt parking space* means a parking space declared by or under Part 4 to be an exempt parking space;

*GST* has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth except that it includes notional GST of the kind for which payments may be made under Part 3 of the **National Taxation Reform (Consequential Provisions) Act 2000** by a person that is a State entity within the meaning of that Act;

*leviable parking space* means a long stay parking space in a car park that is not an exempt parking space;

*levy* means the levy imposed by section 8;

*levy area* means the area described in Schedule 1;

*levy year* means a year for which the levy is being assessed;

*long stay parking space* has the meaning given in section 4;

*motor vehicle* does not include a motor cycle;

*operator* of a public car park means a person who is not the owner of the premises on which the car park is situated but who operates the car park under a lease, licence or other arrangement;

*owner* of premises means—

- (a) a person who holds a freehold interest in the land on which the premises are situated;
- (b) if the premises are on Crown land—
  - (i) if the land is unalienated Crown land—the Crown;

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- (ii) if the Crown has granted a lease or licence over the land—the lessee or licensee of the land;

***parking space*** means—

- (a) a space set aside for the parking of a motor vehicle, whether or not the space is used for the parking of a motor vehicle and whether or not the space is permanently delineated as such; or
- (b) a space used for the parking of a motor vehicle, whether or not the space is permanently delineated as such—

but does not include a space that is part of the carriageway of any street, road or lane open to or used by the public;

***premises*** includes vacant land;

***private car park*** means a car park or part of a car park that is not a public car park;

***public car park*** means a car park the predominant number of parking spaces in which are set aside for, or used by, the general public, whether on a casual basis or under any kind of longer-term arrangement, but does not include part of a car park determined by the Commissioner under subsection (2) not to be a public car park;

***relative***, in relation to a person, means—

- (a) a spouse or domestic partner of the person;
- (b) a lineal ancestor or lineal descendant of the person or of the spouse or domestic partner of the person;

S. 3(1) def. of *relative* inserted by No. 68/2007 s. 3(1).

- (c) a brother or sister of the person or of the spouse or domestic partner of the person;
- (d) a spouse or domestic partner of a person in paragraph (b) or (c);
- (e) a child of a brother or sister of the person or of the spouse or domestic partner of the person;
- (f) a brother or sister of a parent of the person or of the spouse or domestic partner of the person;

S. 3(1) def. of *spouse* inserted by No. 68/2007 s. 3(1).

*spouse* of a person means a person to whom the person is married;

*working day* means a day other than a Saturday, a Sunday or a public holiday appointed under the **Public Holidays Act 1993**;

*year* means a calendar year.

- (2) The Commissioner may determine that part of a car park is not a public car park for the purposes of this Act if satisfied that the part is set aside or used for parking by an owner or a tenant of the premises on which the car park is situated.
- (3) For the purposes of the definition of *domestic partner* in subsection (1)—
  - (a) *registered domestic relationship* has the same meaning as in the **Relationships Act 2008**; and
  - (b) in determining whether persons who are not in a registered domestic relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section

S. 3(3) inserted by No. 68/2007 s. 3(2), substituted by No. 4/2009 s. 37(Sch. 1 item 5.2).

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35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

**4 What is a *long stay parking space*?**

- (1) For the purposes of this Act, a *long stay parking space* is—
- (a) a parking space in a private car park; or
  - (b) a parking space in a public car park that is—
    - (i) set aside or used for ongoing parking by the owner of the space or by another person under a lease, licence or other arrangement with the owner; or
    - (ii) used for the parking of a motor vehicle for a period of at least 4 hours on a working day, commencing at or before 9.30 a.m. and ending at or after 9.30 a.m.
- (2) If more than one parking space referred to in subsection (1)(b)(ii) is used for the parking of one or more motor vehicles, but no one motor vehicle necessarily remains in the same parking space for the duration of the vehicle's stay in the car park on any particular day, each of those parking spaces is taken to be a long stay parking space.
- (3) If the period for which a parking space is used by a motor vehicle cannot be ascertained, the parking space is taken to be a long stay parking space under subsection (1)(b)(ii) if a motor vehicle is parked in that space at 9.30 a.m. on any working day.

**5 Determining the number of parking spaces on premises**

- (1) If premises contain any parking spaces that are not individually delineated by permanently marked lines, the number of those parking spaces is the number obtained by dividing the total area
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occupied by those parking spaces by 25.2 square metres and disregarding any remainder.

- (2) For the avoidance of doubt, the number of parking spaces determined in accordance with subsection (1) is in addition to the number of parking spaces on the premises that are individually delineated by permanently marked lines.
- (3) For the purposes of this Act, a sign or temporary barrier purporting to indicate that a space is not a parking space is not, of itself, evidence that the space is not a parking space.

#### **6 Taxation Administration Act 1997**

This Act is to be read together with the **Taxation Administration Act 1997** which provides for the administration and enforcement of this Act and other taxation laws.

#### **7 Act binds the Crown**

- (1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
  - (2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.
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**PART 2—IMPOSITION OF LEVY**

**8 Levy imposed**

This Act imposes a levy each year in respect of each leviable parking space.

**9 Who is liable for levy?**

- (1) The owner of premises is liable to pay the levy imposed on leviable parking spaces on the premises.
- (2) In the case of a public car park, the operator of the public car park is jointly and severally liable with the owner of the premises to pay the levy imposed on leviable parking spaces in the public car park.

**10 Amount of levy**

- (1) The amount of the levy for 2006 is \$400 for each leviable parking space.
- (2) The amount of the levy for 2007 is \$800 for each leviable parking space.
- (3) The amount of the levy for 2008 and each subsequent year is the CPI adjusted levy for that year for each leviable parking space.
- (4) Despite anything to the contrary in this section, the amount of the levy for 2007 and 2008 for each leviable parking space in the temporary area is \$400 per year.
- (5) A person who has paid an amount as levy on a leviable parking space in the temporary area for 2007 that is more than the amount of the levy referred to in subsection (4) is entitled to a refund of the excess amount.

S. 10(4)  
inserted by  
No. 22/2007  
s. 3.

S. 10(5)  
inserted by  
No. 22/2007  
s. 3.

s. 11

S. 10(6)  
inserted by  
No. 22/2007  
s. 3.

(6) Despite anything to the contrary in section 11, the amount of the levy for each leviable parking space in the temporary area for each subsequent year is the same amount as the levy for each leviable parking space in the remainder of the levy area.

S. 10(7)  
inserted by  
No. 22/2007  
s. 3.

(7) In this section—

*temporary area* means the area the boundary of which commences where the Charles Grimes Bridge crosses the south bank of the Yarra River, and runs southerly on Montague St to the intersection of Montague St and the West Gate Freeway, then westerly on the West Gate Freeway to the intersection of the West Gate Freeway and City Link (Western Link), then northerly on City Link to the point where City Link crosses the south bank of the Yarra River, then easterly along the south bank of the Yarra River to the point of commencement.

## 11 CPI adjusted levy

(1) The *CPI adjusted levy* for a levy year is to be determined in accordance with the following formula—

$$C = \frac{L \times A}{B}$$

where—

C is the CPI adjusted levy being determined, rounded down to the nearest 2 decimal places;

L is the amount of the levy for the previous levy year;

A is the sum of the consumer price index numbers for the 4 consecutive quarters of December, March, June and September, with

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the March quarter being the March quarter of the previous levy year;

B is the sum of the consumer price index numbers for the 4 consecutive quarters of December, March, June and September, with the March quarter being the March quarter of the year that is 2 years before the levy year.

**Example**

In the case of a determination of the CPI adjusted levy for 2008, "L" is the amount of the levy for 2007, "A" is the sum of the consumer price index numbers for December 2006, March 2007, June 2007 and September 2007 and "B" is the sum of the consumer price index numbers for December 2005, March 2006, June 2006 and September 2006.

- (2) The CPI adjusted levy determined under subsection (1) is to be rounded up or down to the nearest \$10 (and, if the amount by which the levy is to be rounded is \$5, is to be rounded up).
- (3) In this section—

*consumer price index* means the Consumer Price Index (All Groups Index) for Melbourne issued by the Australian Statistician (or, if the regulations prescribe another economic index for the purposes of this section, that other index).

**12 Notice of CPI adjusted levy**

- (1) The Commissioner must publish the CPI adjusted levy for a levy year on an appropriate website on or before 1 December in the previous year.
- (2) A failure to comply with subsection (1) in respect of a levy year does not affect the operation of section 11 in respect of the levy payable for that year.

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**PART 3—ASSESSMENT OF LEVY**

**13 How is levy assessed?**

- (1) An owner of premises on 1 January in a year is to be assessed for the levy for that year on each space on that premises that existed as a leviable parking space at any time in the previous year.
- (2) Subsection (1) applies—
  - (a) whether or not the space exists as a leviable parking space on 1 January in the levy year;
  - (b) whether or not the owner was the owner of the premises at the time the space existed as a leviable parking space.
- (3) The operator of a public car park on 1 January in a year is to be assessed for the levy on each space that existed as a leviable parking space in that car park at any time in the previous year.

**Note**

Section 9(2) provides that the owner and the occupier are jointly and severally liable for the levy.

- (4) Schedule 2 contains special provisions for the assessment of the levy for 2006.

**14 Statutory ratio for public car parks**

- (1) For the purpose of assessing the levy for a year in respect of premises that were a public car park at any time in the previous year, the Commissioner must assume that 75% of the parking spaces in that car park (other than exempt parking spaces) are leviable parking spaces.
- (2) This section is subject to section 15.

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## 15 Variation of statutory ratio

- (1) The Commissioner, on application by the owner or operator of a public car park, may approve a percentage of less than 75% as being the percentage of parking spaces in that car park (other than exempt parking spaces) that are leviable parking spaces in respect of any levy year.
- (2) An approval under this section takes effect for the levy year following the year in which the approval is given and remains in force until varied or revoked by the Commissioner under this section.
- (3) If an approval is in force under this section for a public car park, in assessing the levy payable in respect of the car park, the Commissioner must assume that the approved percentage of the parking spaces in that car park (other than exempt parking spaces) are leviable parking spaces.
- (4) The Commissioner, by notice to the owner or operator of a public car park, may at any time vary or revoke an approval given under this section, but cannot vary an approval so that the percentage exceeds 75%.
- (5) If an approval has been given by the Commissioner under clause 4 of Schedule 2 in respect of 2006, that approval is taken, for the purposes of subsequent years, to be an approval given under this section, until varied or revoked by the Commissioner under this section.

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**PART 4—EXEMPTIONS AND CONCESSIONS**

**Division 1—Exempt parking spaces**

**16 Residential parking**

- (1) A parking space is an exempt parking space if it is set aside or used exclusively for the parking of a motor vehicle by a person for residential purposes.
- (2) A reference in subsection (1) to residential purposes includes a reference to temporary residential purposes such as staying in a hotel, serviced apartment or club that provides accommodation.

**17 Parking for visitors and loading bays**

- (1) A parking space is an exempt parking space if it is set aside or used exclusively for the parking without charge of a motor vehicle—
  - (a) by a person who is a client, patient or consultant of the person who provides the parking space; or
  - (b) by a person who is providing maintenance services to the owner or occupier of the premises on which the parking space is located; or
  - (c) by a person who is visiting the premises on which the parking space is located, unless those premises are the person's usual place of business or work; or
  - (d) by a person engaged in loading or unloading goods or passengers.

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- (2) A parking space is an exempt parking space if it is set aside and used exclusively for the parking of a motor vehicle by a person whilst a patient of a hospital or whilst visiting or accompanying a patient of a hospital.

**18 Parking spaces owned by councils, charities etc.**

A parking space is an exempt parking space if—

- (a) the premises on which it is located are owned by a municipal council, religious body, charitable or public benevolent institution, hospital, university, library or museum; and
- (b) no charge is made for the parking of a motor vehicle in the space.

**18A Parking spaces owned by consulates, consular officers etc.**

S. 18A  
inserted by  
No. 68/2007  
s. 4.

- (1) A parking space is an exempt parking space if it is owned by—
- (a) a consular post within the meaning of the Vienna Convention on Consular Relations; or
  - (b) a consular officer or consular employee within the meaning of the Vienna Convention on Consular Relations; or
  - (c) a relative of a person referred to in paragraph (b) who is residing in the same household.

- (2) In this section—

***Vienna Convention on Consular Relations***

means the Vienna Convention on Consular Relations done at Vienna on 24 April 1963.

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## 19 Parking for emergency vehicles

A parking space is an exempt parking space if it is set aside or used exclusively for the parking, without charge, of—

- (a) a police vehicle;
- (b) an ambulance;
- (c) a fire service unit;
- (d) a State Emergency Service vehicle;
- (e) a vehicle of the Australian Defence Force while its members are on march or duty;
- (f) a vehicle being utilised in the performance of emergency services under authority of an Act or the State.

## 20 Parking for people attending special events

A parking space is an exempt parking space if it is set aside or used exclusively for the parking of a motor vehicle in conjunction with a particular event and at all other times is not available for the parking of a motor vehicle.

### Example

Parking spaces in Yarra Park that are only available when events are held at the Melbourne Cricket Ground or Melbourne Park.

## 21 Disabled parking

- (1) A parking space is an exempt parking space if it is set aside or used exclusively for the parking of a motor vehicle displaying a disabled person's parking authority.
- (2) In this section—

*disabled person's parking authority* means a special parking permit issued to a person under—

- (a) clause 2 of Schedule 11 to the **Local Government Act 1989**; or
- (b) clause 3 of Schedule 4 to the **Road Management Act 2004**—

that enables the person to park a motor vehicle in a parking space set aside exclusively for the parking of a motor vehicle by a person holding such a permit.

## **22 Parking for shift workers**

A parking space is an exempt parking space if it is set aside or used exclusively for the parking of a motor vehicle by an employee of a business that operates 24 hours a day on working days while the employee is attending work.

## **23 Garaging of fleet vehicles and bus layovers**

A parking space is an exempt parking space if it is set aside or used exclusively—

- (a) for the overnight parking of a fleet vehicle; or
- (b) for the parking of a passenger bus during layover periods.

## **24 Car sales displays and car service spaces**

A parking space on premises is an exempt parking space if it is set aside or used exclusively for the parking of a motor vehicle—

- (a) that is displayed or stored on the premises for the purposes of its being offered on the premises for sale or hire; or
- (b) for the purpose of being serviced or repaired on the premises on which the space is located or on adjoining premises.

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**Division 2—Concessions**

**25 Part year concession for parking spaces in a private car park**

- (1) This section applies to a parking space in a private car park that, for a period or periods totalling more than 30 days in any year—
  - (a) is an exempt parking space; or
  - (b) is not capable of being used or does not exist as a parking space.
- (2) If the parking space is a leviable parking space for the following year, the levy payable on the space for that year is to be reduced by the same proportion as the proportion of the year represented by the total of the periods referred to in subsection (1).

**Example**

A parking space in a private car park that is otherwise a leviable parking space is set aside for emergency vehicle parking for all of March 2007. It is also not capable of being used as a parking space from 1 July to 30 September 2007 because of building works. The total of those periods is 4 months, or  $\frac{1}{3}$  of the year. Therefore, the amount of the levy for 2008 on the space is to be reduced by  $\frac{1}{3}$  of the full levy.

**26 Part year concession for parking spaces in a public car park**

- (1) This section applies to a parking space in a public car park that, for any period or periods during a year—
  - (a) is an exempt parking space; or
  - (b) does not exist as a parking space.
- (2) If the parking space is a leviable parking space for the following year, the levy payable on the space for the following year is to be reduced by the same proportion as the proportion of the year

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represented by the total of the periods referred to in subsection (1), taking into account the statutory ratio for the public car park under section 14 or 15 (as the case may be).

**Example**

A parking space in a public car park comes into existence on 1 June 2007. It is a long stay parking space for the rest of 2007 except for the month of September, when it is used as a loading bay. Therefore, the space did not exist, or was exempt, for a total of 6 months in 2007, or half the year, and the levy for 2008 in respect of the space is reduced by half subject to applying the relevant statutory ratio for the public car park under section 14 or 15.

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**PART 5—REGISTRATION AND RETURNS**

**Division 1—Registration**

**27 Requirement for registration—private car parks**

- (1) The owner of a private car park must apply to the Commissioner in accordance with this section for registration under this Division.

Penalty: 60 penalty units.

- (2) The application must be made—
- (a) if the owner owned the car park on 1 January 2006—by 21 January 2006; or
  - (b) if the owner became the owner of the car park after 1 January 2006—within 1 month after becoming the owner.
- (3) The application must be in the form, and contain the information, determined by the Commissioner.

**28 Requirement for registration—public car parks**

- (1) The owner of a public car park must apply to the Commissioner in accordance with this section for registration under this Division.

Penalty: 60 penalty units.

- (2) The operator of a public car park must apply to the Commissioner in accordance with this section for registration under this Division.

Penalty: 60 penalty units.

- (3) The application must be made—
- (a) if the owner or operator was the owner or operator of the car park on 1 January 2006—by 21 January 2006; or

- (b) if the owner or operator became the owner or operator of the car park after 1 January 2006—within 1 month after becoming the owner or operator.
- (4) The application must be in the form, and contain the information, determined by the Commissioner.

### **29 Registration**

- (1) The Commissioner must register a person who applies for registration under this Division.
- (2) The Commissioner may, at any time, remove a person from the register or make any other amendments to the register that the Commissioner considers appropriate.

### **30 Requirement to notify changes**

- (1) A person who ceases to be the owner of a car park must notify the Commissioner within 1 month after ceasing to be the owner.

Penalty: 60 penalty units.

- (2) A person who ceases to be the operator of a public car park must notify the Commissioner within 1 month after ceasing to be the operator.

Penalty: 60 penalty units.

- (3) An owner of premises that cease to be a car park must notify the Commissioner within 1 month after the premises cease to be a car park.

Penalty: 60 penalty units.

## **Division 2—Returns**

### **31 Annual return**

- (1) A person who is liable to pay the levy for a year must lodge a return in respect of that year with the Commissioner on or before 21 January in that year.

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**s. 31**

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- (2) In the case of a public car park that has both an owner and an operator, the return must be lodged jointly by the owner and operator.
  - (3) The return is to be in the form, and contain the information, determined by the Commissioner.
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**PART 6—GENERAL**

**32 Levy is a charge on land**

An unpaid levy is a charge on the land on which the leviable parking space in respect of which the levy is payable is or was situated.

**33 Registration of charge**

- (1) The Commissioner may register a charge on land under section 32 by depositing with the Registrar of Titles a certificate describing the land charged and stating that there is an unpaid levy in respect of the land.
- (2) The Registrar of Titles must make a recording of the certificate in the Register.
- (3) When the levy is paid, the Commissioner may request the Registrar of Titles—
  - (a) to remove or delete the charge; or
  - (b) to make a recording in the Register of the discharge of the charge.
- (4) The Registrar of Titles must comply with a request made by the Commissioner under subsection (3).

**33A Indemnity**

- (1) This section applies if a lease, licence or other arrangement between an operator and an owner of a public car park provides that only one of the operator or the owner may set the fees for use of the car park.
- (2) If the lease, licence or other arrangement referred to in subsection (1) provides that the owner may set the fees for the use of the car park, the owner must indemnify the operator for the amount of the levy.

S. 33A  
inserted by  
No. 68/2007  
s. 5.

- (3) If the lease, licence or other arrangement referred to in subsection (1) provides that the operator may set the fees for the use of the car park, the operator must indemnify the owner for the amount of the levy.
- (4) This section has effect despite the terms of any lease, licence or arrangement unless the parties to the lease, licence or arrangement expressly agree that this section is not to apply.

**34 Private car parks—obligation of lessees, licensees etc.**

- (1) This section applies to a parking space in a private car park.
- (2) A person who uses a parking space that is a leviable parking space for a levy year under an agreement with the owner of the parking space must pay to the owner—
  - (a) the amount of the levy for that levy year in respect of that parking space; and
  - (b) the amount of any GST payable in respect of the amount referred to in paragraph (a).
- (3) If a parking space referred to in subsection (2) is used by the person for only part of the year, the amount to be paid by the person is to be reduced proportionately.
- (4) The person must pay the amount required by this section at or before the time that the owner is required to pay the levy.

**Note**

The owner is required to pay the levy by the day specified in the notice of assessment under section 14 of the **Taxation Administration Act 1997**.

- (5) The owner must, on request, provide the person with a copy of the notice of assessment of the levy.

S. 34(2)  
substituted by  
No. 68/2007  
s. 6.

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- (6) If a person does not pay an amount as required by this section, the owner may recover the amount as a debt in a court of competent jurisdiction.
- (7) This section has effect despite the terms of any lease, licence or other agreement, but only until the earlier of the following—
- (a) the parties to the lease, licence or agreement expressly agree that this section is not to apply; or
  - (b) the rental, licence fee, or other amount payable under the agreement by the person who uses the parking space is or could be reviewed, or the lease, licence or agreement could be terminated, by either party.
- (8) In this section—
- agreement* includes a lease, licence, management agreement and any other kind of agreement or arrangement.

### **35 Regulations**

- (1) The Governor in Council may make regulations for or with respect to any matter or thing that is required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act—
- (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstances.
-

See:  
Act No.  
40/1997.  
Reprint No. 2  
as at  
13 September  
2001 and  
amending  
Act Nos  
79/2001,  
113/2003,  
46/2004,  
108/2004 and  
36/2005.  
LawToday:  
www.  
legislation.  
vic.gov.au

**PART 7—AMENDMENT OF TAXATION ADMINISTRATION  
ACT 1997**

**36 Levy comes under the Act**

- (1) In section 3 of the **Taxation Administration Act 1997**, in the definition of *tax*, for "tax or duty" substitute "tax, levy or duty".
- (2) After section 4(a) of the **Taxation Administration Act 1997** insert—
  - "(ab) **Congestion Levy Act 2005** and regulations made under that Act;"

**37 Supreme Court—limitation of jurisdiction**

At the end of section 135 of the **Taxation Administration Act 1997** insert—

- "(4) It is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4), as they apply on and after the commencement of section 37 of the **Congestion Levy Act 2005**, to alter or vary section 85 of the **Constitution Act 1975**."

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**PART 8—TRANSITIONAL PROVISIONS**

Pt 8 (Heading  
and ss 38, 39)  
inserted by  
No. 68/2007  
s. 7.

**38 State Taxation and Accident Compensation Acts  
Amendment Act 2007—indemnity**

S. 38  
inserted by  
No. 68/2007  
s. 7.

- (1) Section 33A, as inserted by section 5 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**, applies, and is taken to have always applied, to owners and operators of public car parks on or after 1 January 2006.
- (2) If, because of subsection (1), the owner or operator of a public car park is required to indemnify another person for an amount that the owner or operator would not otherwise have been required to indemnify that other person for, that amount must be paid within 90 days after the commencement of section 5 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**.

**39 State Taxation and Accident Compensation Acts  
Amendment Act 2007—agreement to use leviable  
parking space**

S. 39  
inserted by  
No. 68/2007  
s. 7.

- (1) Section 34(2), as substituted by section 6 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**, applies, and is taken to always have applied, to any person who uses a leviable parking space on or after 1 January 2006.
- (2) If, because of subsection (1), a person is required to pay an amount that the person would not otherwise have been required to pay, that amount must be paid within 90 days after the commencement of section 6 of the **State Taxation and Accident Compensation Acts Amendment Act 2007**.

Sch. 1

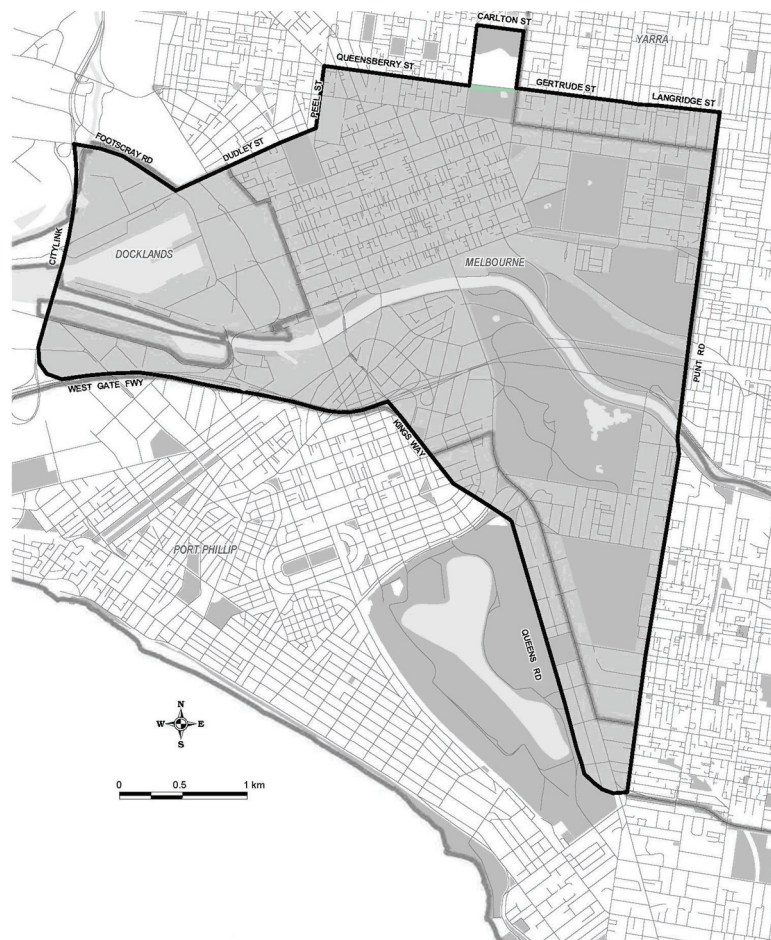
## SCHEDULES

Sch. 1  
amended by  
No. 74/2006  
s. 23.

### SCHEDULE 1

Section 3(1)

### LEVY AREA



The levy area is the area within the bold black line on the above map, being the area in the Cities of Melbourne, Port Phillip and Yarra bounded by Hoddle St, Punt Rd, Queens Rd, Kings Way, the West Gate Freeway, City Link, Footscray Rd, Dudley St, Peel St, Queensberry St, Rathdowne St, Carlton St, Nicholson St, Gertrude St and Langridge St.

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**SCHEDULE 2**

Section 13(4)

**ASSESSMENT OF LEVY FOR 2006**

**1 Application of Schedule**

This Schedule applies for the purpose of assessing the levy for 2006, despite anything to the contrary in this Act.

**2 Levy assessed on 2006 parking spaces**

- (1) An owner of premises is to be assessed for the levy for 2006 on each space on that premises that exists as a leviable parking space at any time in 2006.
- (2) The operator of a public car park is to be assessed for the levy for 2006 on each space in the car park that exists as a leviable parking space at any time in 2006.

**3 Statutory ratio for public car parks**

- (1) For the purpose of assessing the levy for 2006 in respect of premises that were a public car park at any time in that year, the Commissioner must assume that 75% of the parking spaces in that car park (other than exempt parking spaces) are leviable parking spaces.
- (2) This clause is subject to clause 4.

**4 Variation of statutory ratio**

- (1) The Commissioner, on application by the owner or operator of a public car park, may approve a percentage of less than 75% as being the percentage of parking spaces in that car park (other than exempt parking spaces) that are leviable parking spaces in respect of 2006.

- (2) If an approval is in force under this clause for a public car park, in assessing the levy payable in respect of 2006, the Commissioner must assume that the approved percentage of the parking spaces in that car park (other than exempt parking spaces) are leviable parking spaces.
- (3) The Commissioner, by notice to the owner or operator of a public car park, may at any time vary or revoke an approval given under this section, but cannot vary an approval so that the percentage exceeds 75%.

## **5 Concessions**

- (1) If a parking space in a private car park, for a period or periods totalling more than 30 days in 2006—
  - (a) is an exempt parking space; or
  - (b) is not capable of being used or does not exist as a parking space—

the levy payable on the space for 2006 is to be reduced by the same proportion as the proportion of the year represented by the total of those periods.

- (2) If a parking space in a public car park, for any period or periods during 2006—
  - (a) is an exempt parking space; or
  - (b) does not exist as a parking space—

the levy payable on the space for 2006 is to be reduced by the same proportion as the proportion of the year represented by the total of those periods, taking into account the statutory ratio for the public car park under clause 3 or 4 (as the case may be).

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## 6 Estimates

- (1) A person who, on 1 January 2006, is the owner of a private car park must lodge with the Commissioner, on or before 21 January 2006, an estimate of the number of leviable parking spaces the owner expects there to be in the car park for 2006.
- (2) A person who, on 1 January 2006, is the owner of a public car park (or, if there is both an owner and an operator, the owner and operator jointly) must lodge with the Commissioner, on or before 21 January 2006, an estimate of the number of leviable parking spaces the person or persons expect there to be in the car park for 2006.
- (3) An estimate under this clause may be contained in a return under section 31.

## 7 Final adjustment of 2006 levy

As soon as practicable after the end of 2006, the Commissioner must make a final adjustment of the levy payable for 2006 based on the actual number of leviable parking spaces in 2006.

### Note

The **Taxation Administration Act 1997** provides that the Commissioner may make a reassessment of the levy.

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## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 5 October 2005*

*Legislative Council: 26 October 2005*

The long title for the Bill for this Act was "to impose a levy on long stay parking spaces in the central business district and inner Melbourne to reduce traffic congestion, to amend the **Taxation Administration Act 1997** and for other purposes."

The **Congestion Levy Act 2005** was assented to on 2 November 2005 and came into operation on 1 January 2006: section 2.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Congestion Levy Act 2005** by Acts and subordinate instruments.

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### **City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006**

*Assent Date:* 10.10.06  
*Commencement Date:* S. 23 on 1.7.07: Government Gazette 28.6.07 p. 1303  
*Current State:* This information relates only to the provision/s amending the **Congestion Levy Act 2005**

### **State Taxation and Gambling Legislation Amendment (Budget Measures) Act 2007, No. 22/2007**

*Assent Date:* 12.6.07  
*Commencement Date:* S. 3 on 13.6.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Congestion Levy Act 2005**

### **State Taxation and Accident Compensation Acts Amendment Act 2007, No. 68/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* Ss 3–7 on 12.12.07: s. 2  
*Current State:* This information relates only to the provision/s amending the **Congestion Levy Act 2005**

### **Relationships Amendment (Caring Relationships) Act 2009, No. 4/2009**

*Assent Date:* 10.2.09  
*Commencement Date:* S. 37(Sch. 1 item 5) on 1.12.09: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Congestion Levy Act 2005**

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**Endnotes**

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**3. Explanatory Details**

No entries at date of publication.