

AIRPORTS (SURFACE TRAFFIC) AMENDMENT ACT 1976

No. 125 of 1976

An Act to amend the *Airports (Surface Traffic) Act 1960*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

1. (1) This Act may be cited as the *Airports (Surface Traffic) Amendment Act 1976*.¹ Short title,
&c.

(2) The *Airports (Surface Traffic) Act 1960*² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. Section 3 of the Principal Act is amended—

(a) by inserting after the definition of “parking position” in sub-section (1) the following definition:—

“ ‘parking ticket’, in relation to a vehicle within a parking area, means a ticket or other document indicating the date on which and the time at which the vehicle entered the parking area; ”; and

(b) by omitting the definition of “vehicle” in sub-section (1) and substituting the following definition:—

“ ‘vehicle’ includes—

(a) a trailer, caravan or portion of an articulated vehicle; and

(b) an object that was designed or adapted for use as a vehicle but is incapable of being so used by reason that—

(i) a part has, or parts have, been removed from it; or

(ii) it is in a wrecked or damaged condition.”.

4. Section 6 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:— Parking, &c.,
of vehicles
at airports.

“(3A) An amount payable by a person as a parking fee is a debt due by the person to the Commonwealth and may be recovered by action in a court of competent jurisdiction.”.

Offences.

5. Section 8 of the Principal Act is amended—

- (a) by omitting from paragraph (c) of sub-section (1) the words “section six of this Act” and substituting the words “section 6 or any other plant, machinery, equipment or article installed or used for the purpose of controlling the parking of vehicles at an airport”;
- (b) by omitting from sub-section (1) the words “Forty dollars” and substituting the symbol and figures “\$100”; and
- (c) by adding at the end thereof the following sub-sections:—

“(4) In the case of a vehicle that is parked or kept standing in a parking area where a sign or notice displayed in pursuance of section 6 indicates that parking fees are to be paid to an authorized person at the exit from that parking area, a person shall be deemed not to have committed an offence under paragraph (b) of sub-section (1) if he has paid the parking fee to an authorized person before or while removing the vehicle from that area.

“(5) Where—

- (a) a person leaves a vehicle parked or keeps a vehicle standing in a parking area or parking position in respect of which a sign or notice displayed in pursuance of section 6 indicates that parking in that area or position is permitted for a period indicated on the sign or notice (in this sub-section referred to as the ‘permitted period’); and
- (b) the person leaves the vehicle parked or keeps the vehicle standing in that area or position for a period equal to the permitted period and for a further continuous period that is equal to the permitted period or for 2 or more further continuous periods each of which is equal to the permitted period,

the person shall be deemed to have committed a separate and further offence against paragraph (a) of sub-section (1) in respect of his leaving the vehicle parked or keeping the vehicle standing, as the case may be, in that area or position for that further period or for each of those further periods.”.

Removal
and
sale of
vehicles.**6. Section 9 of the Principal Act is amended—**

- (a) by omitting from sub-section (2) the words “Forty dollars” and substituting the symbol and figures “\$100”; and
- (b) by adding at the end thereof the following sub-sections:—

“(4) After the removal of a vehicle in accordance with sub-section (3), the person who removed the vehicle shall, within 21 days after the removal, give to the owner of the vehicle a notice stating where the vehicle is located and setting out the terms of sub-section (6).

“(5) A notice for the purposes of sub-section (4) may be given—

- (a) by being served on the owner personally or by being posted as a registered letter addressed to the owner at the address of the place of residence or business of the owner last known to the person who is required to give the notice; or
- (b) if it is not reasonably practicable to give the notice in accordance with paragraph (a)—by publication of the notice in a newspaper circulating in the State or Territory in which the vehicle is situated.

“(6) If the owner of the vehicle does not, within 1 month after the notice is given—

- (a) pay to the Secretary an amount equal to the expenses incurred in connexion with the removal and storage of the vehicle and the giving of the notice; and
- (b) remove the vehicle from the place where it is located,

the Secretary may—

- (c) by notice published in a newspaper circulating generally in the State or Territory in which the vehicle is situated and in such other newspapers (if any) as the Secretary considers appropriate, invite tenders, within a time specified in the notice, for the purchase of the vehicle; or
- (d) if, in the opinion of the Secretary, the vehicle has no commercial value, cause the vehicle to be disposed of in such manner as he thinks fit.

“(7) If no tender is received for the purchase of the vehicle in pursuance of a notice under sub-section (6) within the time specified in the notice, the Secretary may cause the vehicle to be disposed of in such manner as he thinks fit.

“(8) A person who acquires a vehicle that is disposed of in pursuance of this section becomes the owner of the vehicle free of charges and encumbrances.

“(9) The proceeds of the disposal of a vehicle under this section shall be paid into the Consolidated Revenue Fund.

“(10) If—

- (a) the proceeds of the disposal of a vehicle under this section exceed the sum of the expenses referred to in sub-section (6) in relation to that vehicle and the expenses incurred in connexion with the disposal; and
- (b) a person who satisfies the Secretary that he was the owner of the vehicle immediately before it was disposed of applies to the Secretary for a payment under this sub-section in respect of the vehicle,

an amount equal to the excess shall be paid to the person out of the Consolidated Revenue Fund, which is appropriated accordingly.”.

7. After section 9 of the Principal Act the following section is inserted:—

Actions not to lie in certain circumstances against Commonwealth in respect of loss or damage in relation to vehicles removed.

“9A. An action does not lie against the Commonwealth, or against an officer, employee or agent of the Commonwealth acting in the course of his employment, for or in respect of—

- (a) loss of, or damage to, a vehicle during its removal in accordance with sub-section (3) of section 9; or
- (b) loss of, or damage to, a vehicle so removed while it is in the custody, possession or control of the Commonwealth or of an officer, employee or agent of the Commonwealth,

other than loss or damage wilfully or negligently caused by such an officer, employee or agent.”.

Liability of owner and actual offender for parking infringement.

8. Section 11 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the word “he” and substituting the words “the owner”;
- (b) by omitting sub-sections (3) and (4) and substituting the following sub-sections:—

“(3) The owner of a vehicle shall not, by virtue of this section, be deemed to be guilty of an offence if, not later than the date of the hearing of a summons in respect of the alleged parking infringement or 14 days after the service on the owner of such a summons, whichever is the earlier, the owner furnishes to the informant or complainant a statutory declaration made by the owner or, where the owner is a corporation, by a director, manager or secretary of the corporation, stating—

- (a) in the case where the owner is a corporation—
 - (i) that no officer of the corporation was in control of the vehicle at the time of the alleged infringement; and
 - (ii) the name and address of the person who was in control of the vehicle at that time; and
- (b) in any other case—
 - (i) that the owner was not in control of the vehicle at the time of the alleged infringement; and
 - (ii) the name and address of the person who was in control of the vehicle at that time.

“(4) In a prosecution against the owner of a vehicle in respect of a parking infringement it is a defence if the owner

satisfies the court that the vehicle was, at the time of the infringement, stolen or illegally taken or used by another person.

“(4A) In a prosecution against the owner of a vehicle in respect of a parking infringement, it is a defence if the owner satisfies the court—

- (a) in the case where the owner is a corporation—
 - (i) that no officer of the corporation was in control of the vehicle at the time of the alleged infringement; and
 - (ii) that the owner does not know, and could not with reasonable diligence have ascertained, the name and address of the person who was in control of the vehicle at that time; and
- (b) in any other case—
 - (i) that the owner was not in control of the vehicle at the time of the alleged infringement; and
 - (ii) that the owner does not know, and could not with reasonable diligence have ascertained, the name and address of the person who was in control of the vehicle at that time.”; and

(c) by adding at the end thereof the following sub-section:—

“(7) In this section, ‘officer’, in relation to a corporation, means a director, secretary or employee of the corporation.”.

9. Section 13 of the Principal Act is amended by omitting from sub-section (7) the words “Four dollars” and substituting the symbol and figures “\$10”. Parking infringement notices.

10. Section 14 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:—

“(1) An authorized person may require a person apparently in control of a motor vehicle within an airport (in this sub-section referred to as the ‘driver’) to produce his driver’s licence for inspection and to state his name and address if—

- (a) in the case of a vehicle which is within a parking area and in respect of which a parking ticket has been issued—the driver, when requested to do so by the authorized person, refuses or fails to produce the parking ticket;
- (b) the driver states that he is unable to pay a parking fee that is payable in respect of the vehicle;
- (c) the authorized person has reasonable grounds to believe that the driver may be in possession of the vehicle without the consent of the owner of the vehicle; or

Production of licence, &c., on request by authorized person.

(d) the authorized person otherwise considers it necessary to do so for the purposes of this Act or the regulations.”; and

(b) by omitting from sub-section (2) the words “Forty dollars” and substituting the symbol and figures “\$100”.

Authorized person may give directions.

11. Section 15 of the Principal Act is amended by omitting the words “Forty dollars” and substituting the symbol and figures “\$100”.

Evidence of certain matters.

12. Section 17 of the Principal Act is amended—

(a) by adding at the end of sub-section (1) the words “and as to the terms of any sign or notice displayed in relation to a parking area or parking position”; and

(b) by inserting after sub-section (1) the following sub-sections:—

“(1A) For the purposes of any proceeding for an offence against section 8, being a proceeding in which—

(a) the defendant pleads guilty; or

(b) the defendant does not appear at the time and place fixed for the hearing of the proceeding,

the Secretary or an officer authorized by the Secretary to issue certificates under this section may, by writing under his hand, certify as to any matter with respect to the commission of the alleged offence.

“(1B) The reference in paragraph (b) of sub-section (1A) to the time and place fixed for the hearing of a proceeding shall, where the hearing of a proceeding has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last-known place of residence or business, be construed as a reference to the time and place to which the hearing has been so adjourned.”.

Formal amendments.

13. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 13

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used to identify a section of that Act or of another Act and substituting that number expressed in figures:—

Sections 3 (1) (definitions of “airport”, “authorized person”, “parking area”, “parking fee”, “parking infringement” and “parking position”), 8 (1) and (2), 10 and 21.

2. The following provisions of the Principal Act are amended by omitting the words “of this Act” and “of this section” (wherever occurring):—

Sections 3 (1) (definitions of “authorized person”, “parking area”, “parking fee”, “parking infringement” and “parking position”), 6 (3) and (4), 8 (1) (a) and (b), (2) and (3), 9 (3) (a), 10, 11 (5) and (6), 13 (10) and 17 (3) (c).

SCHEDULE—continued

3. The following provisions of the Principal Act are amended by omitting the word “Australia” (wherever occurring) and substituting the words “the Commonwealth”—

Sections 3 (1) (definitions of “airport” and “authorized person”), 5, 16 (2) and 19.

4. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Sub-section 6 (2)	Omit “Twenty”, substitute “20”.
Section 10	Omit “five”, substitute “5”.
Paragraph 13 (5) (d)	Omit “fourteen”, substitute “14”.
Sub-section 13 (8)	Omit “fourteen”, substitute “14”.
Sub-section 14 (3)	Omit “seven”, substitute “7”.
Paragraph 22 (2) (g)	(a) Omit “Two hundred dollars”, substitute “\$200”. (b) Omit “three”, substitute “3”.

NOTES

1. Act No. 125, 1976; assented to 24 November 1976.
2. Act No. 40, 1960, as amended. For previous amendments *see* Act No. 93, 1966; No. 216, 1973 (as amended by No. 20, 1974); and No. 124, 1974.