

## **EDITH COWAN UNIVERSITY LANDS AND TRAFFIC BY-LAWS**

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## **EDITH COWAN UNIVERSITY LANDS AND TRAFFIC BY-LAWS**

Under the powers conferred by section 29 of the *Edith Cowan University Act 1984*, the Council of the University has made the following by-laws.

### **PART 1 – PRELIMINARY**

#### **Purpose**

- 1.1 These by-laws have been made by the Council for the good control and management of University lands.

#### **Citation**

- 1.2 These by-laws may be cited as the Edith Cowan University Lands and Traffic By-laws.

#### **Commencement**

- 1.3 These by-laws shall commence operation on 1 January 2012.

#### **Definitions and interpretation**

- 1.4 (1) In these by-laws unless the context otherwise requires –

“**ACROD sticker**” means a sticker issued by ACROD (WA Division) for the purpose of identifying a vehicle driven by or carrying a disabled person;

“**Act**” means the *Edith Cowan University Act 1984*;

“**applicant**” means a person who applies for a permit;

“**Authorised Officer**” means any member of staff or officer of the University authorised to act in accordance with section 9.4 of these by-laws;

“**authority**” means –

- (a) the prior consent, in writing where reasonable and necessary, of the Council, the Vice-Chancellor or an Authorised Officer; or
- (b) an authority conferred by a provision of these by-laws or the Act;

“**cigarette**”, “**smoke**” and “**tobacco product**” have the meanings given to those terms respectively in the *Tobacco Products Control Act 2006*;

“**commercial parking permit**” means a permit to park a vehicle issued to a person who is not a member of staff or a student, or to a business engaged in providing commercial services to the University or is an occupier or lessee of University lands;

“**Council**” means the Council of the University;

**“day” or “days”** means any day or days other than a Saturday, Sunday or University holiday;

**“declaration”** means a declaration made under and in accordance with sub-section 2.1;

**“designated University office”** means the administrative office or offices to which applications for permits and the transfer of permits and payments of modified penalties are to be submitted;

**“determination”** means a determination made under and in accordance with sub-section 5.17;

**“detrimental” to University lands** includes –

- (a) removing any thing from or interfering with any thing on University lands including but not limited to rocks, plants and signs; and
- (b) destroying, defacing or damaging any thing on University lands including but not limited to plants, signs and buildings;

**“disabled parking space”** means a parking space which is set aside or designated for the parking of a vehicle driven by or carrying a disabled person;

**“erect”** in relation to a sign, includes to place or to put;

**“fee”** means a fee payable either in full or by authorised instalments and in such manner as authorised by the Vice-Chancellor from time to time;

**“full-time staff member”** means an employee of the University whose contract of employment prescribes full time hours of work, in accordance with the applicable industrial instrument;

**“full-time student”** means a student who is enrolled in units with a credit point value of at least 75% of a full credit point load for higher education courses or 420 or more nominal hours per year for VET courses;

**“infringement notice”** means a notice given under section 10.2;

**“liquor”** has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

**“litter”** includes –

- (a) all kinds of rubbish, refuse, junk, garbage or scrap; and
- (b) any article or material abandoned by the owner or the person in possession of it;

**“metered space”** means a parking space in a metered zone;

**“metered zone”** means a parking area where a vehicle may be parked when an unexpired parking ticket has been obtained and displayed; or the parking meter

for a metered space is unexpired;

**“modified penalty”** means the penalty that is payable for an offence against these by-laws by a person who does not contest the alleged commission of that offence;

**“owner”** in relation to a vehicle, means the person who is the registered holder of the requisite vehicle licence under the *Road Traffic Act 1974* in respect of that vehicle or, if the vehicle is not licensed under that Act the person who owns the vehicle;

**“park”** means to permit a vehicle, whether attended or not by any person, to remain stationary except for the purpose of –

- (a) avoiding conflict with other traffic; or
- (b) complying with the provisions of any law; or
- (c) taking up or setting down persons or goods for a period not exceeding 2 minutes;

**“parking area”** includes an area designated under sub-section 5.1(1);

**“parking meter”** means a machine which upon –

- (a) the insertion of coins or notes or any other form of payment which is indicated on the machine; or
- (b) the use of any token, pass, card, key or device;

displays a period or time or otherwise indicates the duration a vehicle is permitted to park in a metered space;

**“parking space”** means a part of a parking area which is marked by painted lines, studs or by any other means for the purpose of indicating where a vehicle may be parked;

**“parking ticket”** means a ticket from a parking ticket vending machine, and on which a date and expiry time is printed or on which a date and time of issue, and period for which the ticket is valid is printed;

**“parking ticket vending machine”** means a machine which upon –

- (a) the insertion of coins or notes or any other form of payment which is indicated on the machine; or
- (b) the use of any token, pass, card, key or device;

issues a parking ticket;

**“part-time staff member”** means an employee of the University whose contract of employment prescribes ordinary hours of work that are less than those of a full-time staff member, in accordance with the applicable industrial instrument;

“**part-time student**” means a student who is enrolled in units with a credit value of less than 75% of a full credit point load for higher education courses or less than 420 nominal hours per year for VET courses;

“**permit**” means a permit issued under these by-laws;

“**permit holder**” means a person who holds a valid permit;

“**permit period**” means the period for which a permit is valid;

“**police officer**” has the meaning given to it in the *Interpretation Act 1984*;

“**reminder notice**” means a notice issued by an Authorised Officer to an alleged offender advising that –

- (a) the modified penalty imposed on the issue of the infringement notice for the breach has not been paid within 21 days, or such longer period as may have been determined by an Authorised Officer, after the infringement notice was given to the alleged offender; and
- (b) if the modified penalty is not paid within 21 days of the date of the reminder notice, the alleged offender may be taken to have declined to have the allegation dealt with by way of a modified penalty;

“**roadway**” means any part of University lands designed and established for the carriage or parking of vehicles;

“**sign**” includes a notice, flag, mark, structure or device which is authorised by the Vice-Chancellor and on which may be shown words, numbers, pictures or symbols;

“**unexpired**”, when referring to a parking meter, means the time or period permitted for parking, as displayed on the parking meter, has not expired, or the expired sign, or any other means of indicating the time permitted for parking has expired, is not displayed on the parking meter;

“**unexpired parking ticket**” means a parking ticket where the expiry time has not expired, or where the period for which the ticket is valid has not expired;

“**University**” means Edith Cowan University established under the Act;

“**University lands**” means those lands vested in the University or declared to be University lands under section 29(2) of the Act and includes, where the context permits, any thing or structure on those lands;

“**vehicle**” includes any car, truck, bus, motor cycle, motor scooter, bicycle, semitrailer or caravan and any other form of conveyance, or trailer however ridden, driven or propelled;

“**VET**” means the vocational education and training sector of tertiary education which provides Certificates II, III and IV, Diplomas and Advanced Diplomas as specified by the Australian Qualifications Framework; and

“**Vice-Chancellor**” means the chief executive officer of the University or a person acting in that position or a delegate of the Vice-Chancellor.

- (2) In these by-laws, unless the context requires otherwise, a reference to University lands, a building, an area, a parking area or a road includes a reference to a part of University lands, a building, an area, a parking area or a road.

### **Application of by-laws**

1.5 These by-laws shall apply –

- (a) within the boundaries of University lands and to every part of University lands; and
- (b) to every person who is at any time on University lands.

### **Repeal**

1.6 The Edith Cowan University By-laws published in the Government Gazette on 31 January 1986 are repealed.

### **Transitional**

1.7 (1) In this section –

“**commencement date**” means the date on which these by-laws commence operation; and

“**former by-laws**” means the Edith Cowan University by-laws in force immediately prior to the commencement date.

- (2) A permit issued under the former by-laws continues in force after the commencement date until the time it would have done so had the former by-laws continued, and sub-section 5(4) of the former by-laws continues in operation after the commencement date for the purpose of varying, suspending or revoking such a permit.
- (3) Where a sign has been erected under the former by-laws, then on and from the commencement date it is to be taken to be a sign erected under these by-laws, unless the sign is inconsistent with a provision of these by-laws.



## PART 2 - DECLARATIONS

### Power to make declarations

- 2.1 (1) The Vice-Chancellor may declare that a particular area –
- (a) shall be open to members of the public or any specified section of the public subject to compliance with such conditions as may be specified in the declaration;
  - (b) may be used for specified activities by specified persons or classes of persons subject to compliance with such conditions as may be specified in the declaration;
  - (c) shall not be used by a person for the consumption of food or drink (without written authority);
  - (d) shall not be used by any person or only by specified persons; or
  - (e) shall not be used for any specified activity.
- (2) A declaration may specify that it applies for or at a particular time or to classes of persons or activities.
- (3) A declaration is to be in writing and is to be signed by the Vice-Chancellor.
- (4) A declaration has effect on and from the date on which it is signed, or such later date as may be specified in the declaration.
- (5) The Vice-Chancellor shall take such action as the Vice-Chancellor considers reasonable to give written notice of a declaration made under sub-section 2.1(1) to any person or persons named in that declaration.

### Modifying or revoking a declaration

- 2.2 (1) A declaration may be modified or revoked by the Vice-Chancellor at any time and without notice to any person.
- (2) A modification or revocation of a declaration is to be in writing and is to be signed by the Vice-Chancellor.
- (3) A modification or revocation of a declaration has effect on and from the date on which it is signed, or such later date as may be specified in the modification or revocation.
- (4) Notwithstanding sub-section 2.2(1), the Vice-Chancellor shall, where practicable, take such action as the Vice-Chancellor considers reasonable to give written notice of the modification or revocation of a declaration made under sub-section 2.2(1) to any person or persons named in that declaration.

## **Compliance with declaration**

- 2.3 A person shall comply with a declaration, and where the declaration has been modified, shall comply with the declaration as it is modified.

## **Signs**

- 2.4 Except where a declaration made, modified or revoked under sections 2.1 or 2.2 applies to a named person or persons, the Vice-Chancellor shall indicate the effect of a declaration, or the modification or revocation of a declaration, by a sign erected within 24 hours of the making of the declaration on or in the vicinity of the area to which the declaration relates.

## **PART 3 - PERSONS WHO MAY ENTER ON UNIVERSITY LANDS**

### **Persons who may enter**

- 3.1 No person shall enter or remain upon University lands without authority unless that person is –
- (a) a member of the Council, a member of the staff of the University, an employee of the University Student Guild or an employee or proprietor of a business established or conducted on University lands;
  - (b) a student enrolled at the University and pursuing a course of study at the University;
  - (c) a person who holds a permit authorising that person to enter or remain on University lands and who has observed all conditions of the permit; or
  - (d) a person who enters or remains on University lands in good faith for the purpose of visiting the University or for transacting lawful business or having lawful dealings with the University or with a person lawfully on the University lands unless the business or other dealing has been prohibited by the Vice-Chancellor or an Authorised Officer.

### **Extent of Entry**

- 3.2 (1) A person mentioned in section 3.1 shall not, without authority enter or remain on any part of University lands which is not customarily open to entry to that person or to which the Vice-Chancellor or an Authorised Officer has forbidden entry.
- (2) Without limiting section 3.1, any person under 15 years of age shall not enter or remain on University lands unless accompanied at all times by a person over that age and who is a person referred to in sub-section 3.1.
- (3) For the purpose of enforcing sub-section 3.2(2), an Authorised Officer may request a person to state that person's age and to provide proof of their identity and age.

### **Power of Vice-Chancellor, police officer or Authorised Officer to clear persons from University lands**

- 3.3 (1) The Vice-Chancellor, a police officer or an Authorised Officer may direct that a specified part of University lands be immediately vacated and closed and for all persons on that part of University lands other than police officers and/or Authorised Officers to immediately leave that part.
- (2) A person shall comply with a direction given under sub-section (1).

## **PART 4 – USE BY PERSONS OF UNIVERSITY LANDS**

### **Prohibited acts on University lands**

- 4.1 No person shall on University lands –
- (a) deposit litter except in receptacles provided for the purpose of depositing litter;
  - (b) assault or attempt or threaten to assault any other person;
  - (c) use abusive or insulting language or do or engage in any offensive, indecent or improper act, conduct or behaviour;
  - (d) write, draw, publish or otherwise disseminate any indecent or obscene matter of any kind;
  - (e) consume or be under the influence of any unlawful drug;
  - (f) subject to any declaration made under sub-section 2.1(1)(b), smoke cigarettes or tobacco products; or
  - (g) fail to remove or have removed the excrement from an animal under that person's control.

### **Behaviour which is prohibited without authority**

- 4.2 No person shall, without authority on University lands –
- (a) behave in a manner which is likely to interfere with the enjoyment of any other person who is or may in the future be on University lands, or which interferes with the present or future enjoyment of any person on University lands;
  - (b) post, paint or otherwise affix to University lands, or publish, display or distribute any placard, paper, notice or advertisement or other written, printed or graphic matter;
  - (c) bring or cause to be brought or kept on University lands any liquor, or consume or be under the influence of liquor on University lands;
  - (d) bring or cause to be brought on to University lands any unlawful drug or device designed to administer such a drug;
  - (e) light a fire except where fireplaces are provided;

- (f) throw or release a stone or other missile or any dangerous material of any kind;
- (g) enter or remain in any lake, pond or ornamental water;
- (h) behave in a way which is or might be detrimental to University lands;
- (i) bring on to or allow to be brought on to University lands or make any bomb or other explosive device;
- (j) disturb, capture, injure or kill any bird, fish or animal;
- (k) sell or hire, expose or offer for sale or hire, or solicit orders for the purchase or hire of any goods or services, or solicit donations for charity or beg;
- (l) bring any animal on to University lands, unless –
  - (i) the animal is a guide dog or a hearing dog being used to assist the movement of a visually impaired or otherwise disabled person; or
  - (ii) the animal is brought onto University lands for University purposes;
- (m) engage in any form of gambling; or
- (n) arrange, advertise or take part in –
  - (i) a fete, or concert or other performance on those lands; or
  - (ii) public speaking or preaching, unless such public speaking or preaching is allowed by law or practice.

## **PART 5 – USE OF VEHICLES ON UNIVERSITY LANDS**

### ***Division 1 – Establishment of parking areas***

#### **The Vice-Chancellor may establish parking areas**

- 5.1 (1) The Vice-Chancellor may designate an area of University lands a parking area for the parking of vehicles by erecting a sign on or in the vicinity of the area which indicates the effect of the designation.
- (2) A designation under sub-section (1) may prohibit or regulate the parking of vehicles in such manner as the Vice-Chancellor may determine, including but not limited to the designation of a parking area –
- (a) for specified hours during which it may be used for parking;
  - (b) for the parking of vehicles of a specified type;
  - (c) for parking by permit holders of a particular category of permit;

- (d) as a metered zone during such periods as an Authorised Officer may determine;
  - (e) for the parking of vehicles by a particular class of driver; and
  - (f) for the parking of vehicles used for a specified purpose.
- (3) A person shall comply with a sign erected under sub-section (1).

**Suspension of application of Part 5**

- 5.2 (1) The Vice-Chancellor may suspend the application of the whole of or any provision in Part 5 of these by-laws in relation to a specified area for such time and on such conditions as the Vice-Chancellor may specify.
- (2) A suspension under sub-section (1) is to be in writing and is to be signed by the Vice-Chancellor.
- (3) A suspension under sub-section (1) has effect on and from the date on which it is signed, or any later date which may be specified in the suspension.

**Division 2 – Permits**

**Subdivision 1 – Requirement to obtain a permit**

**When a permit is required**

- 5.3 A person shall not park a vehicle in a parking area for which a permit is required unless –
- (a) the vehicle is the subject of a permit of the required type;
  - (b) the permit is a valid permit;
  - (c) the permit is displayed in accordance with sub-section 5.12; and
  - (d) the vehicle is otherwise parked in compliance with these by-laws.

**Subdivision 2 - Categories of permits**

**Categories of permits to park vehicles**

- 5.4 The categories of permits to park vehicles are –

Special  
 Staff (Reserved)  
 Staff  
 Student  
 Commercial  
 Daily/Weekly

## **Special Permit**

- 5.5 (1) In this sub-section –
- “**special permit**” means a permit created under section 5.4 which permits the parking of vehicles in a parking area for a particular purpose and for the period stated in the permit.
- (2) For the purpose of guidance only, a special permit may include a visitor’s permit or a Council member’s permit.
- (3) The Vice-Chancellor may issue a special permit to any person –
- (a) with or without payment of any fee by the person; and
- (b) subject to any conditions which the Vice-Chancellor thinks fit.
- (4) A special permit is to be in the form determined by the Vice-Chancellor.
- (5) The holder of a special permit shall –
- (a) comply with the conditions of the permit; and
- (b) display it so that the front of the permit is clearly visible to and able to be read by an Authorised Officer from outside the front of the vehicle.
- (6) Subject to the conditions imposed on a special permit, the holder of a special permit may park in any parking area notwithstanding that the holder would otherwise be required to display an unexpired parking ticket or a valid permit (other than a special permit) in order to be able to lawfully park in that area.
- (7) A special permit may be cancelled at any time by notice to the holder by the Vice-Chancellor or an Authorised Officer.
- (8) A person shall not use a special permit which has been cancelled under sub-section (7).
- (9) Sections 5.6, 5.7, 5.9, 5.10, 5.11 and 5.12 and sub-section 5.14(1) do not apply to a special permit or to the holder of a special permit.

### ***Subdivision 3 – Application for and issuing of permit***

#### **Application for and issuing of permit**

- 5.6 (1) A person shall apply for a permit to park a vehicle in an area for which a permit is required in accordance with sub-section (2).
- (2) An application for a permit shall –
- (a) be in the form determined by the Vice-Chancellor;
- (b) specify the type of permit sought;

- (c) be signed by the applicant;
  - (d) provide the information required by the form; and
  - (e) be submitted to the designated University office together with the fee for the issue of the permit under sub-section 5.7(a).
- (3) The Vice-Chancellor may refuse to consider an application for a permit which is not in accordance with sub-section (2).
- (4) Notwithstanding sub-section (2)(a), every form of application for a permit shall contain a provision that the applicant for the permit –
- (a) will park the applicant's vehicle in accordance with the permit at the applicant's own risk;
  - (b) shall not hold the University liable for the safe custody of a vehicle or its contents when parked on University lands; and
  - (c) acknowledges that the University does not guarantee that a parking space to which the permit applies will always be available.
- (5) Subject to verification that the information required by the form of application is correct and complete and the relevant fee is paid the applicant shall be issued the appropriate permit, which shall be in the form determined by the Vice-Chancellor.

#### **Conditions which may be imposed on a permit**

- 5.7 The Vice-Chancellor may approve an application for a permit subject to conditions including, but not limited to –
- (a) the payment of a fee;
  - (b) the duration and commencement of the permit;
  - (c) the part of University lands or the parking area to which the permit relates;
  - (d) the vehicle to which the permit relates; and
  - (e) the provision of an indemnity from the permit holder indemnifying the University in respect of any injury to any person or any damage to any property which may occur in connection with the use of University lands by the permit holder for purposes in connection with the permit.

#### **Compliance with and variation of conditions**

- 5.8 (1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.
- (2) The Vice-Chancellor may vary the conditions of a valid permit, and the permit holder shall comply with those conditions as varied.

- (3) The Vice-Chancellor is to notify a permit holder of a variation of the conditions of a permit –
  - (a) by giving a notice to the permit holder; or
  - (b) where a variation affects all permit holders of that type of permit, by erecting a sign which indicates the effect of the variation in each area where parking by those permit holders is permitted.
- (4) A variation of the conditions of a permit takes effect when notice is given under sub-sections (3)(a) or (b) or such later date as may be specified in the notice or sign.

#### ***Subdivision 4 – General provisions relating to permits***

##### **Duration of permit**

- 5.9
- (1) A permit has effect on and from the date specified on the permit or if no date is specified, on the date it is issued under sub-section 5.6(5).
  - (2) A permit is valid from the first day of January in the year in which it is issued until the last day of December in the same year, unless it is otherwise stated in the permit.

##### **Transfer of permit**

- 5.10
- (1) A permit is not transferable to another person.
  - (2) A permit holder may apply to the designated University office for the transfer of a valid permit to another vehicle or to another registration number.
  - (3) An application for the transfer of a valid permit under sub-section (2) is to –
    - (a) be in the form determined by the Vice-Chancellor;
    - (b) be signed by the permit holder;
    - (c) provide details of the vehicle or of the registration number to which the permit is to be transferred;
    - (d) provide the information required by the form; and
    - (e) be forwarded to the designated University office together with any fee payable.
  - (4) Subject to any conditions imposed under section 5.8 and to verification that the information described in sub-section 5.10(3) is correct and complete and any relevant fee is paid the applicant shall be issued the appropriate permit.
  - (5) The transfer of a valid permit is to be effected by the changing of the record held by the University as to which vehicle or registration number the permit relates to.

##### **Change of permit holder's address**



- 5.11 If the address of a permit holder changes from that notified on the application for the permit, the permit holder shall notify the designated University office of that change of address within 7 days.

### **Displaying permit**

- 5.12 A permit shall be displayed so that the front of the permit is clearly visible to and able to be read by an Authorised Officer from outside the front of the vehicle.

### **Display of forged permit or parking ticket**

- 5.13 A person shall not display in or on a vehicle a representation of or a forgery of a valid permit or parking ticket.

## ***Division 3 – Regulation of vehicles generally***

### **Prohibitions**

- 5.14 (1) A person shall not, without authority –
- (a) drive or bring a vehicle on University lands except on the roadways or parking areas;
  - (b) park a vehicle in a parking area other than in accordance with a sign which relates to the area;
  - (c) park a vehicle in a parking space or other place reserved by a sign for a particular purpose except in accordance with that purpose;
  - (d) park a vehicle other than wholly within a parking space or metered space;
  - (e) park a vehicle in such a position so as to interfere with traffic or obstruct other vehicles;
  - (f) park a motor cycle, motor scooter or bicycle in a parking space or metered space for four wheeled vehicles;
  - (g) park a vehicle in a disabled parking space unless the vehicle displays—
    - (i) a valid ACROD sticker so that it is clearly visible to and able to be read by an Authorised Officer from outside the vehicle; and
    - (ii) any other permit or ticket required under these by-laws;
  - (h) park a vehicle in a metered space unless the person –
    - (i) obtains a parking ticket from a parking ticket vending machine which relates to that metered space; and
    - (ii) displays an unexpired parking ticket so that it is clearly visible to and able to be read by an Authorised Officer from outside the

front of the vehicle;

- (i) park a vehicle in a metered space which has a parking meter unless the parking meter is unexpired;
  - (j) park a vehicle in an area not designated as a parking area; or
  - (k) park a vehicle in a parking space marked "m/c" unless it is a motorcycle, motor scooter or bicycle.
- (2) A person shall not on University lands drive a vehicle –
- (a) in a dangerous or careless manner;
  - (b) at a speed exceeding 40 km an hour or at a speed exceeding any lower maximum speed which is specified by a sign with respect to a particular area;
  - (c) into or out of a parking area without first giving way to all other vehicles passing along a roadway;
  - (d) on a roadway so as to commit a breach of any written law if the roadway was a "road" for the purposes of the *Road Traffic Act 1974* (but to the extent that the written law in question is not inconsistent with the Act).
- (3) A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle shall not remove from the vehicle any notice by an Authorised Officer.

### **Control of traffic**

5.15 A person driving or in charge of a vehicle on University lands shall –

- (a) obey a signal, order or direction given to that person by an Authorised Officer or a police officer in relation to the movement or control of traffic; and
- (b) comply with all directions relating to traffic shown on signs.

### **Reservation of parking space**

- 5.16 (1) The Vice-Chancellor may reserve a parking space for any person or purpose by erecting a sign to that effect on or in the vicinity of the space.
- (2) A person shall not park a vehicle in a parking space reserved under sub-section (1), other than in accordance with the sign.

#### ***Division 4 – Determination of the Vice-Chancellor***

##### **Determination with respect to traffic**

- 5.17 (1) The Vice-Chancellor may determine that, at such times and for such period as is specified, Authorised Officers and/or police officers are to have complete control over all traffic on University lands.
- (2) A determination made under sub-section (1) –
- (a) is to be in writing and is to be signed by the Vice-Chancellor; and
  - (b) has effect on and from the date on which it is signed, or such later date as may be specified in the determination, unless the determination is made –
    - (i) in an emergency; or
    - (ii) to avoid possible injury or damage to a person or property.
- (3) A person driving or in charge of a vehicle or animal on University lands shall obey a signal, order or direction addressed to the person by an Authorised Officer or a police officer under a determination made under sub-section (1).
- (4) In giving a signal, order or direction, an Authorised Officer or a police officer is not required to provide proof of a determination made under sub-section (1) to the person being signalled, ordered or directed.
- (5) This section applies notwithstanding the terms of any valid permit or authority given under these by-laws or any sign erected under this Part 5.

#### **PART 6 – ENFORCEMENT POWERS OF AUTHORISED OFFICERS**

##### ***Division 1 – Obstruction of an Authorised Officer***

##### **Obstruction of an Authorised Officer**

- 6.1 No person shall obstruct an Authorised Officer in the exercise of his/her powers and functions under these by-laws.

##### ***Division 2 – Removal of persons***

##### **Removal of persons and things from University lands**

- 6.2 (1) An Authorised Officer or a police officer may direct a person to leave University lands where the Authorised Officer or police officer reasonably believes that the person –
- (a) is not a person described in sub-section 3.1; or

- (b) has breached any provision of these by-laws.
- (2) Where an Authorised Officer or a police officer believes that a vehicle, animal or thing is involved in a breach of these by-laws, the Authorised Officer or police officer may direct a person having the apparent control or charge of the vehicle, animal or thing to remove it from University lands.
- (3) A person shall comply with a direction given under sub-sections (1) or (2).
- (4) Where a person fails to comply with a direction given under sub-sections (1) or (2) then an Authorised Officer or a police officer may use reasonable force to –
  - (a) remove the person, vehicle, animal or thing from University lands; or
  - (b) impound the vehicle in accordance with Division 3 of this Part.

### **Giving of name and address**

- 6.3 A person shall give the person's name and address whenever required to do so by an Authorised Officer or a police officer.

### **Vice-Chancellor may prohibit certain persons from entering on University lands**

- 6.4 (1) Notwithstanding sub-section 3.1, where the Vice-Chancellor is of the opinion that the presence of a person on University lands is detrimental to the welfare of the University, the Vice-Chancellor may notify the person, in writing, that the person is prohibited from entering or remaining on University lands or any specified part of University lands.
- (2) A person in receipt of a notice under sub-section (1) shall comply with the terms of that notice.
- (3) Where a person in receipt of a notice under sub-section (1) fails to comply with the terms of that notice, an Authorised Officer or police officer may use reasonable force to remove that person from University lands.

## ***Division 3 – Impounding of vehicles***

### **Interpretation**

- 6.5 In this Division –
- (1) "vehicle" includes any thing on or in a vehicle which is not part of the vehicle; and
  - (2) unless proof to the contrary is provided to the satisfaction of an Authorised Officer, the owner of a vehicle is to be taken to be the owner of any thing which is not part of the vehicle.

## **Impounding**

- 6.6 (1) An Authorised Officer or a police officer may remove and impound any vehicle or authorise the removal and impounding of any vehicle –
- (a) involved in a breach of any provision of these by-laws; or
  - (b) which has not been moved for 48 hours, where the owner of the vehicle has no authority to leave the vehicle on University lands for more than 48 hours.
- (2) An Authorised Officer, police officer or an agent of the University may use reasonable force to exercise the power given by sub-section (1), and in particular may remove a vehicle by entering it by any means and by driving or towing it away.
- (3) A vehicle removed and impounded under this section is to be removed and impounded to a place (which may not be on University lands) nominated by an Authorised Officer.
- (4) After a vehicle has been removed and impounded under this section, an Authorised Officer is to give a notice to the owner of the vehicle advising of the removal and impounding.
- (5) The University may retain possession of a vehicle removed and impounded under this section, until a person pays –
- (a) all costs not exceeding \$300 incurred by the University in removing and impounding the vehicle; and
  - (b) the daily impounding fee not exceeding \$20 per day for the period of the impounding.
- (6) Subject to sub-section (5) the Council shall determine the amounts of the costs and fees to be paid for the removing and impounding of a vehicle.
- (7) A person collecting a vehicle may be required to produce such proof as an Authorised Officer or a police officer may require as to the person's ownership or right to possess the vehicle before that person is permitted to collect the vehicle.

## **Sale of vehicle**

- 6.7 (1) The Vice-Chancellor may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice being given under sub-section 6.6(4).
- (2) Where a vehicle is sold or disposed of under sub-section (1), the balance of the proceeds of the sale or disposal (after deducting the costs and fee in sub-section 6.6(5) and the expenses of the sale or disposal) –
- (a) are to be given to the owner; or
  - (b) dealt with under the provisions of the *Unclaimed Money Act 1990*.

## **PART 7 – FEES FOR PARKING PERMITS AND PARKING TICKETS**

- 7.1 (1) The maximum fees for categories of parking permits are –
- |                  |                   |
|------------------|-------------------|
| Staff (Reserved) | \$1,000 per annum |
| Staff            | \$400 per annum   |
| Student          | \$150 per annum   |
| Commercial       | \$1,000 per annum |
| Daily/Weekly     | \$10 per day      |
- (2) The maximum fee for parking in a metered space is \$5.00 per hour.
- (3) Subject to sub-sections (1) and (2), the Council shall determine the amounts of the fees to be paid for the issue of parking permits and parking tickets.
- (4) The Council may determine the eligibility of members of staff to park in parking areas designated for holders of student parking permits.
- (5) The Council may determine that different fees for staff parking permits are payable by full-time and part-time members of staff.
- (6) The Council may determine that different fees for student parking permits are payable by full-time and part-time students.

## **PART 8 – GIVING OF DOCUMENTS**

### **Giving of documents**

- 8.1 (1) Where a document of any type (including an infringement notice) is to be given to a person under these by-laws, the document may be given by –
- (a) physically giving it to the person;
  - (b) sending it by ordinary post, facsimile transmission or electronic mail to the most recent address of the person appearing on the records of the University;
  - (c) where the person is a permit holder, sending it by ordinary post, facsimile transmission or electronic mail to the address of the permit holder appearing on the application for a permit or subsequently notified to an Authorised Officer under sub-section 5.11; or
  - (d) where the document is an infringement notice which relates to an offence involving a vehicle, putting it on the vehicle.
- (2) A document in sub-section (1) is to be taken to have been given when –
- (a) it is physically given to the person;
  - (b) it would have been delivered in the ordinary course of post;

- (c) a transmission report prints out from the sender's facsimile machine confirming a successful transmission;
  - (d) the sender sends the electronic mail, provided that the sender does not receive an electronic mail message advising to the effect that a delivery failure has occurred; or
  - (e) it is put on the vehicle,
- as the case may be.

## **PART 9 – EVIDENTIARY PROVISIONS**

### **Owner of vehicle taken to be offender**

- 9.1 (1) This section applies whenever a vehicle is involved in a breach of any provision of these by-laws.
- (2) Subject to sub-section (4), if there is a valid permit in respect of a vehicle involved in a breach of these by-laws, the permit holder is to be deemed to have been the driver or the person in charge of the vehicle at the time of the alleged breach of the by-laws and to have committed that breach.
- (3) Subject to sub-section (4), if there is no valid permit in respect of a vehicle involved in a breach of these by-laws, the owner of the vehicle is to be deemed to have been the driver or person in charge of the vehicle at the time of the alleged breach of the by-laws and to have committed that breach.
- (4) A permit holder or an owner is not be taken to have committed the breach under sub-section (2) or (3), as the case may be, where the permit holder or owner –
- (a) within 14 days of being given a reminder notice, gives a Statutory Declaration to an Authorised Officer providing the name and address of another person who was the driver or person in charge of the vehicle, or stating that the vehicle was stolen, at the time of the alleged breach;
  - (b) satisfies a court of law that –
    - (i) another person was driving or in charge of the vehicle at the time of the breach; and
    - (ii) the permit holder or owner could not with reasonable diligence have ascertained the name and address of that person within 14 days of being given a reminder notice; or
    - (iii) the vehicle was stolen at the time of the alleged breach.

### **Authority to take proceedings**

- 9.2 (1) Proceedings may be taken in any court of summary jurisdiction in accordance with the *Criminal Procedure Act 2004* in respect of any offence committed under these by-laws, and any penalty imposed or compensation payable may be recovered in a summary manner in accordance with the *Criminal Procedure Act 2004*.
- (2) Proceedings may be taken by the Vice-Chancellor, a police officer or an Authorised Officer who shall be reimbursed out of the funds of the University for all costs, expenses or damages which the person taking proceedings may incur or become liable for by reason of taking proceedings.
- (3) The Vice-Chancellor or an Authorised Officer may take proceedings in respect of any breach of these by-laws in that person's name.

### **Proof of by-laws and other documents**

- 9.3 (1) The production of a copy of these by-laws certified by an Authorised Officer is evidence of the making and authenticity of the by-laws in all courts and before all persons acting judicially.
- (2) The production of any notice, letter or other document or copy of these documents, issued or written for the purposes of these by-laws and which purports to be signed by an Authorised Officer is, until evidence is given to the contrary, evidence of the documents having been so issued or written.

### **Proof of Authorised Officer**

- 9.4 (1) The Vice-Chancellor may in writing authorise a member of staff or officer of the University to perform any of the functions and exercise any of the powers of an Authorised Officer under these by-laws and may in writing designate one or more positions as positions whose occupants are so authorised.
- (2) The statement in sub-section (1) is to be in such form as may be determined by the Vice-Chancellor.
- (3) In any proceedings, production of the statement referred to in sub-section (1) is evidence of the due authorisation of the Authorised Officer on and from the date of the authorisation until and including the date of the production.
- (4) The Vice-Chancellor may amend or revoke an authorisation given under this section.

## **PART 10 – OFFENCES AND PENALTIES**

### **General offence**

- 10.1 Any person who breaches, contravenes or fails to comply with a provision of these by-laws commits an offence and on conviction is liable to a penalty not exceeding \$250.



## **Infringement Notice**

- 10.2 (1) An Authorised Officer who has reason to believe that a person has committed an offence against these by-laws may, within 21 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (2) An infringement notice is to be in the form determined by the Vice-Chancellor.
- (3) An infringement notice is to specify the amount of the modified penalty which is payable in respect of the offence.
- (4) A person who does not contest an allegation of the commission of a breach of these by-laws is to pay the modified penalty to the designated University office within a period of 21 days after the infringement notice has been given to an alleged offender or such longer period as may be determined from time to time by an Authorised Officer.
- (5) An infringement notice shall state that –
- (a) an alleged offender may provide to an Authorised Officer within 14 days of the date of that notice an explanation, in writing, for the breach;
- (b) after consideration of that explanation by an Authorised Officer, who shall not be the Authorised Officer referred to in sub-section (1), further notice shall be given that –
- (i) the explanation has been accepted or that, for other reasons, the infringement notice has been withdrawn; or
- (ii) the infringement notice will not be withdrawn and that the modified penalty must be paid within 21 days of the further notice; and
- (iii) the decision of the Authorised Officer in response to the explanation is final.
- (6) An infringement notice shall state that the explanation referred to in sub-section (5) may take the form of a Statutory Declaration providing the name and address of another person who was the driver or person in charge of the vehicle, or stating that the vehicle was stolen, at the time of the alleged breach.

## **Benefit of paying modified penalty**

- 10.3 Subject to sub-section 10.7, a person who has been given an infringement notice for an offence against these by-laws cannot be prosecuted for that offence where—
- (a) the amount of the modified penalty has been paid within 21 days after the infringement notice has been given or within such further time as is allowed by an Authorised Officer; or
- (b) the infringement notice has been withdrawn under section 10.5.

### **Reminder Notice and Final Notice**

- 10.4 (1) If the infringement notice has not been withdrawn under sub-section 10.5, a reminder notice shall be issued if the modified penalty has not been paid within 21 days, or such longer period as may have been determined by an Authorised Officer, after the infringement notice was given to the alleged offender.
- (2) If the modified penalty has not been paid within 21 days after a reminder notice has been issued, an Authorised Officer shall issue a notice of final demand allowing the alleged offender 28 days to –
- (a) pay the amount due; or
  - (b) elect to have the allegation or allegations determined in a court of summary jurisdiction.

### **Withdrawal of infringement notice**

- 10.5 (1) An Authorised Officer may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the form determined by an Authorised Officer stating that the infringement notice has been withdrawn.
- (2) An infringement notice may not be withdrawn by the Authorised Officer who issued that infringement notice.
- (3) Where an infringement notice is withdrawn after the amount of the modified penalty has been paid, the amount is to be refunded to the person who paid it.
- (4) Where an infringement notice is withdrawn before the amount of the modified penalty is paid, the alleged offender ceases to be liable to pay the amount of the modified penalty on and from that time.
- (5) Where an infringement notice is withdrawn, the Authorised Officer withdrawing the notice is to record, in respect of the infringement notice, the reasons for the withdrawal of the infringement notice and the fact that the infringement notice has been withdrawn.

### **Breach of by-laws is a disciplinary offence**

- 10.6 Where an enrolled student breaches, contravenes or fails to comply with a provision of these by-laws that person commits a disciplinary offence for which a complaint may be brought, heard and determined under Statute No. 22 instead of these by-laws.

### **Modified penalty**

- 10.7 (1) The modified penalty payable by a person who does not contest an allegation of the commission of a breach of these by-laws shall be the modified penalty prescribed for that breach by sub-section 4 of this section.
- (2) The production of an acknowledgement from the designated University office of the payment of a modified penalty shall be a defence to a charge of the breach in respect of which the modified penalty is paid.

- (3) If it appears to an Authorised Officer that an alleged breach of these by-laws cannot be adequately punished by payment of a modified penalty, the Authorised Officer shall advise the alleged offender in writing that the modified penalty will not be applied and the Authorised Officer may take proceedings against the alleged offender.
- (4) The modified penalties shall be –
- (a) for the breach of the following by-laws, \$60 –
- 5.13 - Display of a representation of or of a forged permit or parking ticket;
  - 5.14(1)(e) - Parking causing interference or obstruction;
  - 5.14(1)(g) - Unauthorised parking in a disabled parking space;
  - 5.14(2)(a) - Driving in a dangerous or careless manner.
- (b) for any other beach of these by-laws, \$25.

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