



New South Wales

# Fines Amendment Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Fines Act 1996* (*the Act*) as follows:

- (a) to abolish the State Debt Recovery Office (the *SDRO*) and provide for the appointment of a Commissioner of Fines Administration to exercise its functions,
- (b) to provide for the suspension of visitor driver privileges as a means of enforcing payment of fines,
- (c) to establish a trial for the enforcement (as fines) of amounts payable by offenders under restitution orders,
- (d) to establish a scheme for the enforcement in this State of interstate fines that are not subject to the enforcement scheme provided for by that *Service and Execution of Process Act 1992* of the Commonwealth,
- (e) to authorise the Commissioner of Fines Administration to utilise interstate laws and Commonwealth laws to enforce New South Wales fines,
- (f) to make changes related to the interstate fine enforcement scheme established in 2010 by Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth,
- (g) to permit the enforcement of a fine or penalty notice amount, before its due date, where a person agrees to a combined payment arrangement (an arrangement for the payment of the fine or penalty notice amount in conjunction with other fines payable by the person),
- (h) to permit any fine overpayments made by a person to be reallocated towards the payment of other fines payable by the person,
- (i) to make other minor and consequential amendments.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on 1 December 2013, or the date of assent to the proposed Act, whichever is later.

## Schedule 1 Amendment of Fines Act 1996 No 99

### Abolition of SDRO

**Schedule 1 [45]** provides for the appointment of a Commissioner of Fines Administration (*the Commissioner*). The functions of the Commissioner are substantially the same as the functions of the SDRO (which is to be abolished).

New provisions will enable the Commissioner to use the name “State Debt Recovery” in the exercise of functions under the Act and to authorise the use of that name for other purposes. It will be an offence to take proceedings under that name, or to carry on any other activity under that name, unless authorised to do so by or under the Act.

The amendments also provide for the following:

- (a) the employment of persons in the Public Service to assist the Commissioner,
- (b) delegation of the Commissioner’s functions,
- (c) authorisation to exercise enforcement functions,
- (d) personal liability of the Commissioner.

**Schedule 1 [56] (proposed clause 29 of Schedule 3)** abolishes the SDRO and provides for the transfer of assets, rights and liabilities of the SDRO to the Crown.

**Schedule 1 [1], [3], [5], [8], [10], [12], [13], [16], [26]–[33], [35], [36], [41], [44], [46], [48], [50] and [51]** make consequential amendments.

The amendments to other legislation in **Schedule 2** (other than the amendments specifically mentioned below) are also consequential on the abolition of the SDRO and the appointment of the Commissioner.

### Suspension of visitor driver privileges

**Schedule 1 [20] and [22]** permit the enforcement of a fine by means of suspension of a person’s visitor driver privileges.

A visitor driver privilege is any exemption under road transport legislation that confers authority on a visiting driver (such as a resident of another State) to drive a motor vehicle in New South Wales, even though the visiting driver does not hold a New South Wales driver licence.

The amendments require Roads and Maritime Services to suspend visitor driver privileges if directed to do so by the Commissioner.

Such enforcement action is to be taken only if the fine defaulter is liable for 2 or more fines and the fines relate to traffic offences.

**Schedule 1 [24]** permits the interim restoration of visitor driver privileges if a fine, or the conviction or sentence to which it relates, is the subject of a challenge.

**Schedule 1 [21]** makes a consequential amendment.

**Schedule 2.14** contains consequential amendments to the *Road Transport (Driver Licensing) Regulation 2008*.

### Trial for enforcement of restitution orders

**Schedule 1 [53]** establishes a trial for the enforcement under the Act of restitution orders made under the *Victims Rights and Support Act 2013* (or under the former Act, the *Victims Support and Rehabilitation Act 1996*).

At present, a restitution order (an order for the payment of restitution by an offender) is enforceable as if it were an order made in civil proceedings for the payment of a debt to the Commissioner of Victims Rights.

Under the trial, the amount payable under the order will be enforceable under the Act as if it were a fine imposed by a court.

The trial period will run for 12 months (or a longer period prescribed by the regulations). It will apply only to restitution orders confirmed before or during the trial period that the Commissioner of Victims Rights and the Commissioner of Fines Administration agree should be enforced under the trial.

The amendments modify the application of the Act, as it applies to restitution orders, and also suspend the operation of various enforcement provisions under the *Victims Rights and Support Act 2013* (or the former Act, the *Victims Support and Rehabilitation Act 1996*) in relation to restitution orders that are enforced under the trial.

### **Enforcement in NSW of interstate fines**

**Schedule 1 [43]** (see, in particular, Division 2 of proposed Part 5A) establishes a scheme for the enforcement of interstate fines in New South Wales.

Under the scheme, the Commissioner is given power to make an order (an *interstate fine enforcement order*) for the enforcement of an interstate fine in New South Wales. An interstate fine enforcement order may be made at the request of the originating jurisdiction for the fine (the jurisdiction in which the fine was imposed). The interstate fine enforcement order has the same effect, with some modifications, as a fine enforcement order made in respect of a NSW fine (a fine for which New South Wales is the originating jurisdiction). Accordingly, the Commissioner can take enforcement action under the Act in relation to the interstate fine, in the same way as for a NSW fine. Any money recovered in New South Wales under the interstate fine enforcement order is to be applied, firstly, towards payment of New South Wales enforcement costs and fines. The remainder is to be paid to the originating jurisdiction.

The scheme will not apply to fines that fall within the enforcement scheme provided for by Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth (the *SEP Act*). The SEP Act permits a fine that is imposed by a court of one State to be registered, in certain circumstances, in another State. The fine then becomes enforceable in the registering State as if it had been imposed by a court of the registering State. Accordingly, an enforcement scheme for interstate fines that are court imposed already exists under that Act.

As the new enforcement scheme provided for by the amendments will not apply to SEP Act fines, it will principally apply to administrative type fines, such as fines payable under penalty notices.

**Schedule 1 [47]** permits the disclosure of information obtained under the Act in connection with a request for the enforcement of, or the enforcement of, an interstate fine enforcement order.

**Schedule 1 [49]** permits guidelines to be made under the Act with respect to the issue of interstate fine enforcement orders.

**Schedule 2.7 [1]** makes a consequential amendment to the *Fines Regulation 2010*.

### **Enforcement of NSW fines in other jurisdictions**

**Schedule 1 [43]** (see, in particular, Division 3 of proposed Part 5A) makes further provision for the enforcement of NSW fines in other jurisdictions.

The amendments permit the Commissioner to request enforcement action or to exercise other functions under the legislation of other jurisdictions (including the SEP Act) for the purpose of enforcing the payment of NSW fines.

The Commissioner can enter into arrangements with other jurisdictions for the payment of amounts recovered in those jurisdictions in the enforcement of NSW fines.

Enforcement action in NSW is not permitted if the Commissioner has requested enforcement action in another jurisdiction.

**Schedule 1 [47]** permits the disclosure of information obtained under the Act in connection with a request for the enforcement of, or the enforcement of, a fine enforcement order in another jurisdiction.

### **Further amendments relating to SEP Act**

**Schedule 1 [4]** makes it clear that a fine includes any fine to which Part 7 of the SEP Act applies.

**Schedule 1 [7] (proposed section 14 (1))** permits the Commissioner to make a court fine enforcement order in respect of an interstate fine that is registered in New South Wales under Part 7 of the SEP Act, without the need for the fine to be referred by the court to the Commissioner for enforcement. Under the SEP Act, once an interstate fine is registered in New South Wales it is enforceable in New South Wales as if it had been imposed by a court of New South Wales.

**Schedule 1 [19]** makes it clear that imprisonment cannot be used as an enforcement mechanism in respect of a fine registered in New South Wales under the SEP Act. This is consistent with section 114 of the SEP Act.

### **Combined payment arrangements**

**Schedule 1 [6], [7] and [14]** permit a fine enforcement order to be made, before the due date for the fine or penalty notice amount, if the person liable to pay the fine or penalty notice amount seeks from the Commissioner a time to pay order that provides for a combined payment arrangement. A time to pay order is an order that extends the time for payment of a fine or allows a fine to be paid by instalments. A time to pay order may be made only after a fine enforcement order has been made. Accordingly, the amendments will permit a time to pay order that provides for a combined payment arrangement to be made in respect of a fine or penalty notice amount before the amount is due. **Schedule 1 [9]** is a consequential amendment.

**Schedule 1 [34], [37] and [38]** provide for combined payment arrangements. A combined payment arrangement is an arrangement for the payment of a fine or penalty notice amount in conjunction with another fine payable by the same person. For example, a time to pay order could permit the payment by instalment of all the relevant fines or penalty notice amounts payable by the person.

**Schedule 2.7 [3]** makes a consequential amendment to the *Fines Regulation 2010*.

### **Allocation of overpayments**

**Schedule 1 [52]** permits the Commissioner to reallocate any overpayment made by a person under a fine enforcement order towards payment of amounts payable under other fine enforcement orders that are in force in relation to the person, instead of refunding the overpayment. At present, the Act permits such a reallocation only if the overpayment is made as a result of the withdrawal or annulment of the fine enforcement order. The amendment will permit inadvertent overpayments (an overpayment otherwise than as a result of the withdrawal or annulment of a fine enforcement order) to be reallocated. However, the Commissioner is required to refund an inadvertent overpayment if the person who made the overpayment applies for a refund.

**Schedule 1 [11], [15], [17] and [18]** are consequential amendments.

### **Other amendments**

**Schedule 1 [39]** makes the Director-General of the Department of Finance and Services a member of the Hardship Review Board, instead of the Chief Commissioner of State Revenue.

**Schedule 1 [23]** updates a reference to the title of an Act.

**Schedule 1 [2]** inserts new definitions that are related to the above amendments. **Schedule 1 [40]** is a consequential amendment.

**Schedule 1 [25]** updates a provision that confers power to issue an examination summons, so that it instead confers power to issue an order for examination. The new terminology is consistent with the terminology used in the *Uniform Civil Procedure Rules 2005*. **Schedules 1 [42] and 2.7 [4]** are consequential amendments.

**Schedule 1 [54]** updates a Schedule to the Act that lists the penalty notice provisions in other Acts that are enforceable under the *Fines Act 1996* to include various recently enacted Acts.

**Schedule 1 [55]** enables savings and transitional regulations to be made as a consequence of any amendment to the Act.

**Schedule 1 [56]** provides for savings and transitional matters.



New South Wales

# Fines Amendment Bill 2013

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New South Wales

# Fines Amendment Bill 2013

No. , 2013

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## **A Bill for**

An Act to amend the *Fines Act 1996* to make further provision for the enforcement of fines and interstate fines; to abolish the State Debt Recovery Office; and to make related amendments to other legislation.

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**The Legislature of New South Wales enacts:**

1

**1 Name of Act**

2

This Act is the *Fines Amendment Act 2013*.

3

**2 Commencement**

4

This Act commences on 1 December 2013, or the date of assent to this Act, whichever is the later.

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## Schedule 1 Amendment of Fines Act 1996 No 99

### [1] Section 3 Definitions

Omit “State Debt Recovery Office” wherever occurring in the definitions of *approved form*, *person in receipt of a Government benefit* and *reviewing agency* in section 3 (1).

Insert instead “Commissioner”.

### [2] Section 3 (1)

Insert in alphabetical order:

*authorised officer* has the meaning given by section 116B.

*combined payment arrangement* has the meaning given by section 100.

*order for examination* means an order under section 75.

*time to pay order* means an order under section 100.

*visitor driver privileges* has the meaning given by section 66A.

### [3] Section 3 (1)

Omit the definition of *State Debt Recovery Office*. Insert in alphabetical order:

*Commissioner* means the Commissioner of Fines Administration referred to in section 113.

### [4] Section 4 Meaning of “fine”

Insert “(including a fine to which Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth applies, subject to that Part)” after “for an offence” in section 4 (1) (a).

### [5] Sections 11 (6) (note), 12, 13, 14 (1C), (2) and (4), 16 (2) (a), 17 (1) and (2), 19 (1) (f), 24A (2) (a), 38 (1B) and (1C), 40, 41, 42 (2A), 44 (2) (a), 46 (1), 48 (3) and (5), 49, 49A (1) and (4)–(7), 50 (1) and (3), 51 (1), 52 (1) and (4) (d), 58 (1) (g), 59, 61 (3) (d), 65 (1), (2) and (4)–(5), 66, 67 (2) and (3), 68 (2) and (4), 72 (1), (2) and (4)–(8), 73 (1), (2) and (4), 74 (1), (5) and (6), 76A (1), (3) and (5), 77 (3), 79 (1)–(3) and (7), 80 (1) and (4) (c), 80A (1), 86 (1)–(4), (6) and (9), 87 (1), 99B (1), (2) (a) and (4), 99BA (4) and (5), 99C (1) and (2), 99F (7) and (8), 99I (3), 100 (1), (2), (3), (4) and (5), 101 (1)–(1B) and (4), 101B (1), (4) and (6), 102 (1), 102A (1), 103 (1) (a), 107 (1)–(4), 108, 112 (2), 112A (2) (a), 117 (1) and (1A), 117AA, 117AB (1), 118, 120 (1) (a), 122B and 126A (2) and (3) (note)

Omit “State Debt Recovery Office”, “the Office” and “The Office” wherever occurring.

Insert instead “Commissioner”, “the Commissioner” and “The Commissioner” respectively.

### [6] Section 13 Referral for a court fine enforcement order

Omit section 13 (1) (b) and (c). Insert instead:

(b) the person on whom the fine has been imposed seeks a work and development order in relation to the fine, or

(c) the person is in receipt of a Government benefit and seeks a time to pay order in relation to the fine, or

(d) the person seeks a time to pay order in relation to the fine that provides for a combined payment arrangement.

<b>[7] Section 14 When an order may be made</b>	1
Omit section 14 (1)–(1B). Insert instead:	2
(1) The Commissioner may make a court fine enforcement order:	3
(a) if the registrar of the court that imposed the fine refers the matter to the Commissioner for the making of a court fine enforcement order, or	4
(b) if the fine is registered in New South Wales under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth and that Act permits the fine to be enforced in or by New South Wales as the registering State.	5
<b>Note.</b> Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth allows interstate fines imposed by courts that are registered in New South Wales to be enforced in New South Wales in the same way as New South Wales court imposed fines.	6
(1A) A court fine enforcement order may be made only if there has been a default in payment of the fine by the due date.	7
(1B) However, a court fine enforcement order may be made, without any default in payment, in relation to a fine imposed by a court on a person if:	8
(a) the person seeks a work and development order in relation to the fine, or	9
(b) the person is in receipt of a Government benefit and seeks a time to pay order in relation to the fine, or	10
(c) the person seeks a time to pay order in relation to the fine that provides for a combined payment arrangement.	11
(1BA) The Commissioner must not make a court fine enforcement order referred to in subsection (1B) unless the Commissioner decides to make the work and development order, or time to pay order, sought by the person.	12
<b>[8] Sections 14 (1C) and (2), 49 (1) (a) and (b), (3) and (3B), 49A (1), 99C (2) and 99F (8)</b>	13
Omit “it” wherever occurring. Insert instead “the Commissioner”.	14
<b>[9] Section 14 (1C)</b>	15
Omit “or (c)”. Insert instead “, (c) or (d)”.	16
<b>[10] Sections 17 (1), 41, 46 (1), 66 (4), 67 (3), 101 (1A), 108 (1) and 120 (1) (a)</b>	17
Omit “its” wherever occurring. Insert instead “the Commissioner’s”.	18
<b>[11] Section 17 Withdrawal of order</b>	19
Omit section 17 (6) and (7). Insert instead:	20
<b>Note.</b> The Commissioner may, instead of repaying an amount under this section, reallocate it towards the payment of other amounts payable by the person under fine enforcement orders (see section 122C).	21
<b>[12] Section 19A Appropriate officer may give official caution</b>	22
Omit “State Debt Recovery Office” from paragraph (a) of the definition of <i>guidelines</i> in section 19A (3).	23
Insert instead “Office of State Revenue in the Department of Finance and Services”.	24

<b>[13] Section 22 Persons who may issue and deal with penalty notices (appropriate officers)</b>	1 2
Omit “Chief Commissioner of State Revenue” from section 22 (2) (b) (ii).	3
Insert instead “Commissioner”.	4
<b>[14] Section 42 When a penalty notice enforcement order may be made</b>	5
Omit section 42 (1AA) and (1BB). Insert instead:	6
(1AA) The Commissioner may also make a penalty notice enforcement order, in respect of an amount owed by a person under a penalty notice, if the Commissioner:	7 8 9
(a) receives an application by the person for a work and development order in relation to the amount, or	10 11
(b) receives an application for a time to pay order in relation to the amount from a person who is in receipt of a Government benefit, or	12 13
(c) receives an application for a time to pay order in relation to the amount and the application is for a combined payment arrangement.	14 15
(1BB) The Commissioner must not make a penalty notice enforcement order referred to in subsection (1AA) unless the Commissioner decides to make the work and development order, or time to pay order, sought by the person.	16 17 18
<b>[15] Section 46 Withdrawal of order</b>	19
Omit section 46 (7) and (8). Insert instead:	20
<b>Note.</b> The Commissioner may, instead of repaying an amount under this section, reallocate it towards the payment of other amounts payable by the person under fine enforcement orders (see section 122C).	21 22 23
<b>[16] Sections 49 (4), 52 (1) and 102 (2)</b>	24
Omit “that Office” wherever occurring. Insert instead “the Commissioner”.	25
<b>[17] Section 52 Provisions relating to annulment of enforcement orders</b>	26
Omit section 52 (6) and (6A).	27
<b>[18] Section 52, note</b>	28
Insert at the end of the section:	29
<b>Note.</b> The Commissioner may, instead of repaying an amount under this section, reallocate it towards the payment of other amounts payable by the person under fine enforcement orders (see section 122C).	30 31 32
<b>[19] Section 57 Application and interpretation</b>	33
Insert after section 57 (1):	34
(1A) Division 6 (Imprisonment) does not apply to a fine registered in New South Wales under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth that is enforced in New South Wales as the registering State under that Act.	35 36 37 38

<b>[20] Section 65 When enforcement action taken under this Division</b>	1
Insert after section 65 (3):	2
(3A) Despite subsections (1) and (2), enforcement action with respect to a fine defaulter's visitor driver privileges is not to be taken under this Division unless:	3
(a) the fine defaulter is liable for 2 or more fines under fine enforcement orders, and	4
(b) the fines relate to traffic offences, and	5
(c) subsection (1) (a), (b) or (c) applies to each of those fines.	6
<b>[21] Section 65, note</b>	7
Insert “, is not a visitor driver” after “driver licence”.	8
<b>[22] Section 66A</b>	9
Insert after section 66:	10
<b>66A Suspension of visitor driver privileges</b>	11
(1) Roads and Maritime Services must suspend any visitor driver privileges of a fine defaulter against whom it is required to take enforcement action.	12
(2) Roads and Maritime Services must suspend visitor driver privileges even if the Commissioner has, after requiring Roads and Maritime Services to take enforcement action:	13
(a) granted an extension of time for the payment of the fine, or	14
(b) allowed the fine defaulter to pay the fine by instalments.	15
(3) Roads and Maritime Services is to remove the suspension of visitor driver privileges if the Commissioner directs it to cease enforcement action in respect of the fine defaulter under this Division.	16
(4) The statutory rules under the <i>Road Transport Act 2013</i> may make further provision for the suspension of visitor driver privileges in connection with fine enforcement orders.	17
(5) This section does not limit the powers of Roads and Maritime Services in relation to visitor driver privileges under any other Act.	18
(6) In this section:	19
<i>visiting driver</i> means a person who:	20
(a) does not hold a driver licence, and	21
(b) holds a licence or permit to drive a motor vehicle issued in a place outside this jurisdiction.	22
<i>visitor driver privileges</i> means any exemption under road transport legislation (within the meaning of the <i>Road Transport Act 2013</i> ) that confers authority on a visiting driver to drive a motor vehicle in this jurisdiction, even though the visiting driver does not hold a driver licence.	23
<b>[23] Section 69 Interim restoration or reinstatement of licence or registration pending appeal etc</b>	24
Omit “ <i>Local Courts</i> ” from section 69 (1) (b).	25

<b>[24] Section 69A</b>	1
Insert after section 69:	2
<b>69A Interim restoration of visitor driver privileges</b>	3
(1) A person may apply to Roads and Maritime Services for restoration of visitor driver privileges suspended under this Division if:	4
(a) in the case of a penalty notice enforcement order—the person has lodged an application under Division 5 of Part 3 to have an application to annul the fine enforcement order concerned determined by the Local Court and those proceedings have not been determined, or	5
(b) in the case of a court fine enforcement order—the person has lodged an appeal against the conviction or sentence in respect of which the fine concerned was imposed, or the person has lodged an application under Part 2 of the <i>Crimes (Appeal and Review) Act 2001</i> to annul that conviction or sentence, and those proceedings have not been determined.	6
(2) In such a case, Roads and Maritime Services must restore visitor driver privileges by removing the suspension of visitor driver privileges.	7
(3) Any restored visitor driver privileges may be suspended again under this Act following the determination of the proceedings referred to in subsection (1) or in connection with a different fine payable by the person.	8
(4) Visitor driver privileges cannot be restored under this section if visitor driver privileges have ceased to apply to the person for some other reason under the road transport legislation.	9
<b>[25] Sections 75 and 75A</b>	10
Omit section 75. Insert instead:	11
<b>75 Examination of fine defaulter</b>	12
(1) The Commissioner may issue an order (an <i>order for examination</i> ) under this section for the purpose of enabling enforcement action to be taken under this Division.	13
(2) An order for examination may be directed:	14
(a) if the fine defaulter is a natural person—to the fine defaulter, or	15
(b) if the fine defaulter is a corporation—to an officer or former officer of the corporation.	16
(3) An order for examination:	17
(a) is to require the person to whom it is directed to attend before the Commissioner or other specified authorised officer, or before a specified officer of a court, at the place specified in the order, and	18
(b) is to require the person to so attend on a day and at a time specified in the order and thereafter as required by the Commissioner or officer to be orally examined as to the fine defaulter’s property and other means of satisfying the fine and generally as to the fine defaulter’s financial circumstances, and	19
(c) may require the person to produce to the Commissioner or officer, at any such examination, any document or other thing in the person’s possession or control that tends to show the fine defaulter’s true financial circumstances.	20

- (4) An order for examination is to be served personally on the person to whom it is directed. 1  
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- (5) A person is not bound to produce any document or other thing that is not specified or sufficiently described in the order for examination or that the person would not be bound to produce on a subpoena for production in the Supreme Court. 3  
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- (6) An order for examination may not be issued to a person if that person has previously attended an examination within the previous 3 months pursuant to an order for examination under this section. 7  
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- (7) An examination under this section may be adjourned: 10
- (a) by the Commissioner, in a case where a person is required to attend before the Commissioner or other specified authorised officer, or 11  
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- (b) by a specified officer of a court, in a case where a person is required to attend before the specified officer. 13  
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- (8) The Commissioner, authorised officer or specified officer of the court (as the case requires) must notify the person concerned of the time and place for the adjourned examination. 15  
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- (9) The Commissioner may, instead of issuing an order for examination, request the fine defaulter by notice to supply the relevant information for the purpose of enabling enforcement action to be taken under this Division. An order for examination may be issued if the notice is not complied with. 18  
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- 75A Enforcement of order for examination** 22
- (1) If a person who is issued with an order for examination fails to attend in accordance with the order, the Commissioner may issue a warrant for the apprehension of the person and for the person to be brought before the Commissioner or other specified authorised officer, or before a specified officer of a court, for examination in accordance with this section. 23  
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- (2) Any such warrant of apprehension: 28
- (a) may not be issued unless the Commissioner is satisfied that the order for examination was duly served on the person, and 29  
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- (b) may not be issued until at least 14 days after the person was notified (in the manner required for the service of a fine enforcement order) that a warrant will issue if the person does not attend for examination in accordance with this section, and 31  
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- (c) is to be directed to the Sheriff and may be executed by the Sheriff or by the Sheriff's officers or by any court bailiffs authorised by the Sheriff, and 35  
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- (d) may be executed with the assistance of any police officer. 38
- (3) The Commissioner may report the following matters to the Supreme Court or the District Court for determination: 39  
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- (a) a failure to attend in accordance with an order for examination, 41
- (b) a refusal, without reasonable excuse, to give evidence on oath or affirmation after attending for examination, 42  
43
- (c) the giving of false information at an examination, 44
- (d) a failure, without reasonable excuse, to produce any document or thing required to be produced by an order for examination. 45  
46

(4)	The court to which the matter is referred may deal with the matter as if it were a contempt of that court.	1 2
<b>[26]</b>	<b>Sections 86 (1) and (3), 99C (1) (b)–(g), 101 (1A) (a) and (1B) and 126A (note)</b>	3
	Omit “it is” wherever occurring.	4
<b>[27]</b>	<b>Section 86 Revocation of community service order</b>	5
	Omit “its decision” from section 86 (6). Insert instead “the decision”.	6
<b>[28]</b>	<b>Sections 89 (6) and (7), 89A (1), 95 (5) and 103 (2)</b>	7
	Omit “State Debt Recovery Office” wherever occurring.	8
	Insert instead “Commissioner of Fines Administration”.	9
<b>[29]</b>	<b>Section 95 Execution of warrant</b>	10
	Omit “it” where firstly occurring in section 95 (5). Insert instead “the Commissioner”.	11
<b>[30]</b>	<b>Section 99B Making an order</b>	12
	Omit section 99B (5). Insert instead:	13
(5)	If the Commissioner determines to make an order, the order is to be made in such terms as are agreed between the Commissioner, the applicant and each approved person.	14 15 16
<b>[31]</b>	<b>Section 99BA Assessments of eligibility for orders and keeping of records</b>	17
	Omit section 99BA (2). Insert instead:	18
(2)	If such an assessment is included in the application, the Commissioner is to rely on that assessment when deciding whether to make the work and development order unless the Commissioner has reason to believe that the assessment should not be relied on.	19 20 21 22
<b>[32]</b>	<b>Section 99BA (5)</b>	23
	Omit “it” where firstly occurring. Insert instead “the Commissioner”.	24
<b>[33]</b>	<b>Section 99I Work and development guidelines</b>	25
	Omit “(State Debt Recovery Office)” from section 99I (5).	26
<b>[34]</b>	<b>Section 100 Time to pay</b>	27
	Omit section 100 (1A). Insert instead:	28
(1A)	However, an application for time to pay a fine may be made before a fine enforcement order is made by:	29 30
(a)	a person who is in receipt of a Government benefit, or	31
(b)	a person who seeks a combined payment arrangement.	32
<b>[35]</b>	<b>Section 100 (3A)</b>	33
	Omit the subsection. Insert instead:	34
(3A)	In particular, the Commissioner may allow a person to pay the fine in instalments, as a regular direct debit, if the Commissioner:	35 36
(a)	is satisfied that adequate arrangements are in place for such a regular payment to be made, and	37 38

	(b) agrees to the fine being paid in this manner.	1
[36]	<b>Section 100 (4A)</b>	2
	Omit “State Debt Recovery Office’s”. Insert instead “Commissioner’s”.	3
[37]	<b>Section 100 (4B)</b>	4
	Insert after section 100 (4A):	5
	(4B) An order under this section may be made in relation to more than one fine and may provide for a combined payment arrangement.	6 7
[38]	<b>Section 100 (7)</b>	8
	Insert after section 100 (6):	9
	(7) In this section, a <i>combined payment arrangement</i> means an arrangement for the payment of a fine or an amount payable under a penalty notice in conjunction with payment of another fine for which a fine enforcement order has been made.	10 11 12 13
[39]	<b>Section 101A Hardship Review Board</b>	14
	Omit section 101A (1) (a). Insert instead:	15
	(a) the Director-General of the Department of Finance and Services, and	16
[40]	<b>Section 101B Reviews by Hardship Review Board</b>	17
	Omit “an order under section 100” wherever occurring in section 101B (1) (b) and (6) (b). Insert instead “a time to pay order”.	18 19
[41]	<b>Section 101C</b>	20
	Omit the section. Insert instead:	21
	<b>101C Disclosure of information by Hardship Review Board</b>	22
	The Hardship Review Board, a member of the Board, or a person otherwise engaged in the administration of this Subdivision, may disclose to the Commissioner, or any other person engaged in the administration of this Act, information obtained in the administration of this Subdivision.	23 24 25 26
[42]	<b>Section 103 Electronic transmission of documents</b>	27
	Omit “examination summons” from section 103 (1) (b1). Insert instead “order for examination”.	28 29
[43]	<b>Part 5A</b>	30
	Insert after Part 5:	31
	<b>Part 5A Interstate fine enforcement</b>	32
	<b>Division 1 General</b>	33
	<b>108A Definitions</b>	34
	(1) In this Part: <i>another jurisdiction</i> means a jurisdiction other than New South Wales.	35 36



- discharged*, in relation to an interstate fine or part of such a fine, means discharged because of payment, remission, pardon or otherwise. 1  
2
- interstate fine* means a monetary penalty that is payable by a person under an order in force under the law of another jurisdiction for any one or more offences, or alleged offences, against the law of that jurisdiction, and includes: 3  
4  
5
- (a) any costs (including expenses or disbursements) payable by the person under the order, and 6  
7
- (b) such other amounts (if any) as may be prescribed by the regulations. 8
- interstate fine enforcement authority* for an interstate fine means a court, Government Department or other agency (or an officer of a court, Government Department or other agency) that is responsible for the enforcement of the fine in the originating jurisdiction. 9  
10  
11  
12
- interstate fine enforcement order* means an order under section 108C. 13
- jurisdiction* means a State or Territory. 14
- NSW fine* means a fine for which New South Wales is the originating jurisdiction. 15  
16
- NSW fine enforcement order* means a fine enforcement order in relation to a NSW fine. 17  
18
- offender*, in relation to an interstate fine or NSW fine, means the person on whom the fine was imposed. 19  
20
- order* includes: 21
- (a) a verdict or judgment, and 22
- (b) a notice requiring the payment of a fine for an offence or alleged offence. 23  
24
- originating jurisdiction* means the jurisdiction in which the order under which a fine or interstate fine is payable was made. 25  
26
- participating jurisdiction* means another jurisdiction: 27
- (a) in which NSW fine enforcement orders are enforceable under the laws of that jurisdiction, or 28  
29
- (b) that is prescribed by the regulations to be a participating jurisdiction for the purposes of this Part. 30  
31
- this jurisdiction* means New South Wales. 32
- (2) If a provision of this Part confers a function on the originating jurisdiction for an interstate fine, that function may be exercised by: 33  
34
- (a) an interstate fine enforcement authority for the interstate fine, or 35
- (b) any other body or person that the Commissioner is satisfied is authorised to exercise the function on behalf of the originating jurisdiction. 36  
37  
38
- References to the originating jurisdiction are to be construed accordingly. 39

#### **108B Relevant connection of offender with a jurisdiction** 40

- For the purposes of this Part, an offender has a *relevant connection* with a jurisdiction if the offender has any one or more of the following connections with the jurisdiction: 41  
42  
43
- (a) the offender is resident in the jurisdiction, 44
- (b) the offender holds a licence or permit to drive a motor vehicle issued in the jurisdiction, 45  
46

(c)	the offender has debts due and accruing in the jurisdiction in respect of which a garnishee order could be made,	1 2
(d)	the offender has a motor vehicle that is registered in the jurisdiction,	3
(e)	the offender has property that is located in the jurisdiction,	4
(f)	the offender has such other connection with the jurisdiction as may be prescribed by the regulations.	5 6
<b>Division 2 Enforcement of interstate fines in NSW</b>		7
<b>108C</b>	<b>Power to make interstate fine enforcement orders</b>	8
(1)	The Commissioner may make an order (an <i>interstate fine enforcement order</i> ) for the enforcement of an interstate fine in this jurisdiction.	9 10
(2)	An interstate fine enforcement order may be made in relation to an interstate fine only if:	11 12
(a)	the originating jurisdiction for the interstate fine is a participating jurisdiction, and	13 14
(b)	a request for the order has been duly made under this Part by the interstate fine enforcement authority for the interstate fine, and	15 16
(c)	Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth does not apply to the fine.	17 18
	<b>Note.</b> Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth permits certain interstate fines imposed by courts to be registered in New South Wales and enforced in the same way as NSW court imposed fines. Accordingly, court fine enforcement orders can be made in relation to registered fines under Division 3 of Part 2 (see section 14). This Part provides for the enforcement of interstate fines to which Part 7 of the Commonwealth Act does not apply, such as administrative fines.	19 20 21 22 23 24
(3)	A single order may be made for the enforcement of 2 or more interstate fines payable by a person.	25 26
(4)	An interstate fine enforcement order may be made in the absence of, and without prior notice to, the person liable to pay the interstate fine.	27 28
(5)	The Commissioner must not make an interstate fine enforcement order unless the originating jurisdiction for the fine, or a person or body acting on its behalf, is required (whether because of statutory duty, agreement or otherwise) to notify the Commissioner if the fine is partially or fully paid in the originating jurisdiction.	29 30 31 32 33
<b>108D</b>	<b>Effect of interstate fine enforcement order</b>	34
(1)	Part 4 (Fine enforcement action) applies to the enforcement of an interstate fine following the making of an interstate fine enforcement order in the same way as it applies to a NSW fine following the making of a NSW fine enforcement order.	35 36 37 38
(2)	For that purpose:	39
(a)	a reference in that Part to a fine enforcement order includes a reference to an interstate fine enforcement order, and	40 41
(b)	a reference in that Part to a fine includes a reference to an interstate fine and the enforcement costs payable under the interstate fine enforcement order.	42 43 44
(3)	Part 8 applies to an interstate fine the subject of an interstate fine enforcement order or a request for an interstate fine enforcement order as if:	45 46
(a)	a reference to a fine included a reference to the interstate fine, and	47

	(b) a reference to a fine defaulter included a reference to the offender in relation to the interstate fine, and	1 2
	(c) a reference to a fine enforcement order included a reference to an interstate fine enforcement order.	3 4
	(4) Parts 4 and 8 apply with any other modifications provided for by this Part or the regulations.	5 6
<b>108E</b>	<b>Request for interstate fine enforcement order</b>	7
	(1) The originating jurisdiction for an interstate fine may request the Commissioner to make an interstate fine enforcement order in relation to the fine if:	8 9 10
	(a) the liability of the offender to pay the fine has not been fully discharged, and	11 12
	(b) there is reason to believe that the offender has a relevant connection with this jurisdiction.	13 14
	(2) The request must:	15
	(a) be made in writing, and	16
	(b) include all information required by the Commissioner to make an interstate fine enforcement order.	17 18
	(3) A request for the making of an interstate fine enforcement order may be made by post, facsimile or other electronic transmission, or by any other method approved by the Commissioner.	19 20 21
	(4) A single request may be made for more than one interstate fine, in which case this section applies to each of the fines to which that request relates.	22 23
	(5) A request may not be made under this section in relation to an interstate fine if:	24
	(a) action to enforce the fine is being taken in another jurisdiction, or	25
	(b) Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth applies to the fine.	26 27
<b>108F</b>	<b>Form of interstate fine enforcement order</b>	28
	An interstate fine enforcement order must specify the following matters:	29
	(a) the offender's name, address and date of birth (if known),	30
	(b) a description of the offence, or alleged offence, in respect of which each fine to which the order applies was imposed,	31 32
	(c) the originating jurisdiction and the name of the interstate fine enforcement authority that requested the making of the order,	33 34
	(d) the date on which the fine was imposed,	35
	(e) the amount required to be paid, being the amount of the fine that remains to be paid, together with specified enforcement costs payable in this jurisdiction.	36 37 38
<b>108G</b>	<b>Amendment or withdrawal of request for interstate fine enforcement order</b>	39
	(1) The originating jurisdiction for an interstate fine may, at any time, by notice in writing to the Commissioner, request the Commissioner to amend or withdraw an interstate fine enforcement order for the interstate fine.	40 41 42
	(2) The request may be given by post, facsimile or other electronic transmission, or by any other method approved by the Commissioner.	43 44

(3)	The request must include all information required by the Commissioner to amend or withdraw the order.	1 2
(4)	A request may be made whether or not the interstate fine has been paid.	3
(5)	A notice given to the Commissioner by the originating jurisdiction for an interstate fine to the effect that a fine has been partially or fully paid in the originating jurisdiction is taken:	4 5 6
(a)	to be a request for amendment of any interstate fine enforcement order that applies to the fine (if the fine has been partially paid), or	7 8
(b)	to be a request for the withdrawal of an interstate fine enforcement order that applies to the fine or, if the order relates to more than one fine, for the partial withdrawal of the order as it relates to that particular fine (if the fine has been fully paid).	9 10 11 12
<b>108H</b>	<b>Amendment or withdrawal of interstate fine enforcement orders</b>	13
(1)	The Commissioner may (and, if requested by the originating jurisdiction for the interstate fine, must) amend an interstate fine enforcement order:	14 15
(a)	to reduce the amount that is payable under the order to recognise payments made in the originating jurisdiction to partially discharge the fine, or	16 17 18
(b)	to otherwise correct an error.	19
(2)	The Commissioner may withdraw an interstate fine enforcement order if satisfied that:	20 21
(a)	the liability of the offender to pay an interstate fine to which the order applies has been fully discharged (otherwise than by payment to the Commissioner), or	22 23 24
(b)	the person named in the order is not the same person as the person in respect of whom a fine to which the order applies was imposed, or	25 26
(c)	the order was otherwise made in error.	27
(3)	An interstate fine enforcement order may be completely withdrawn or partially withdrawn to the extent that it applies to a particular fine.	28 29
(4)	An interstate fine enforcement order must be withdrawn, or partially withdrawn, in accordance with any request for withdrawal made by the originating jurisdiction for the interstate fine.	30 31 32
(5)	The Commissioner is to provide written confirmation to the originating jurisdiction that an interstate fine enforcement order has been withdrawn or amended in accordance with a request duly made by that jurisdiction.	33 34 35
<b>108I</b>	<b>Effect of amendment or withdrawal of interstate fine enforcement orders</b>	36
(1)	If an interstate fine enforcement order is amended:	37
(a)	the order continues to have effect in its amended form, and	38
(b)	any enforcement action already taken is to be reversed, unless the same enforcement action is authorised under the order (as amended), a NSW fine enforcement order or another interstate fine enforcement order, and	39 40 41
(c)	any amount that has already been paid under the order is taken to have been paid under the order (as amended), and	42 43
(d)	any excess amount paid is repayable to the person by whom it was paid.	44

(2)	If an interstate fine enforcement order is withdrawn completely:	1
(a)	the order then ceases to have effect, and	2
(b)	any enforcement action already taken is to be reversed, unless the same enforcement action is authorised under a NSW fine enforcement order or another interstate fine enforcement order, and	3 4 5
(c)	enforcement costs are not payable under the order, and	6
(d)	any excess amount paid is repayable to the person by whom it was paid.	7
(3)	If an interstate fine enforcement order is partially withdrawn to the extent that it applies to a particular fine:	8 9
(a)	the order continues to have effect in respect of the remaining interstate fines to which it applies, and	10 11
(b)	any excess amount paid is repayable to the person by whom it was paid.	12
(4)	The withdrawal of an interstate fine enforcement order does not prevent the making of a further order in respect of the interstate fine.	13 14
(5)	In this section, an <i>excess amount paid</i> is any amount paid in excess of the total of the following:	15 16
(a)	the enforcement costs (if any) payable under the interstate fine enforcement order,	17 18
(b)	the amounts payable under any NSW fine enforcement orders in force in relation to the offender,	19 20
(c)	if the interstate fine enforcement order is amended or partially withdrawn, the amount payable under the order as in force after its amendment or partial withdrawal.	21 22 23
<b>108J</b>	<b>Enforcement costs payable under interstate fine enforcement orders</b>	24
(1)	The following enforcement costs are payable under an interstate fine enforcement order:	25 26
(a)	any amounts prescribed by the regulations as enforcement costs for interstate fine enforcement orders,	27 28
(b)	the costs and expenses referred to in section 76A (Sheriff's additional costs of taking enforcement action under this Division).	29 30
(2)	The following applies to any such enforcement costs:	31
(a)	an amount may be prescribed as the enforcement costs payable to the Commissioner on the making of the order,	32 33
(b)	an amount may be prescribed as the enforcement costs payable to Roads and Maritime Services if any enforcement action is taken by Roads and Maritime Services under Division 3 of Part 4 before payment is made under the order,	34 35 36 37
(c)	an amount may be prescribed as the enforcement costs payable into the Consolidated Fund if any enforcement action is taken by the Sheriff or other official under Division 4 of Part 4 before payment is made under the order.	38 39 40 41
<b>108K</b>	<b>Application of amounts recovered</b>	42
(1)	Any amount recovered as a consequence of the making of an interstate fine enforcement order is to be applied as follows:	43 44
(a)	firstly, towards enforcement costs payable under the interstate fine enforcement order,	45 46

(b)	secondly, towards the amount payable under any NSW fine enforcement orders in force in relation to the offender,	1 2
(c)	thirdly, towards the amount payable under the interstate fine to which the interstate fine enforcement order applies.	3 4
(2)	The Commissioner and an interstate fine enforcement authority for an interstate fine to which an interstate fine enforcement order applies may enter into arrangements for the payment to the authority or its nominee of any amounts that are payable under this section towards the interstate fine.	5 6 7 8
(3)	Section 121 (Fines payable into Consolidated Fund) does not apply in relation to any amount payable under this section towards the interstate fine.	9 10
<b>108L</b>	<b>Modifications to application of Part 4</b>	11
	Part 4 applies in relation to an interstate fine subject to the following modifications:	12 13
(a)	Division 6 (Imprisonment) of that Part does not apply in relation to an interstate fine,	14 15
(b)	section 69 applies in relation to an interstate fine enforcement order as if a reference to an appeal against conviction or sentence included a reference to an appeal against, or an application for the review of, the interstate fine under the law of the originating jurisdiction,	16 17 18 19
(c)	the amount of costs and expenses payable as enforcement costs in this jurisdiction under section 76A is to be reduced by any amount prescribed under section 108J (2) (c) as payable to the Consolidated Fund,	20 21 22 23
(d)	section 101 is to be read as if a reference to the writing off of a fine were limited to the writing off of the enforcement costs for the issue of an interstate fine enforcement order,	24 25 26
(e)	section 101B (1) (c) is to be read as if it were limited to the writing off, or the failure to write off, the whole or part of, the enforcement costs for the issue of an interstate fine enforcement order.	27 28 29
<b>Division 3</b>	<b>Enforcement of NSW fine enforcement orders in participating jurisdictions</b>	30 31
<b>108M</b>	<b>Commissioner may request enforcement of NSW fine enforcement order</b>	32
(1)	The Commissioner is authorised:	33
(a)	to make a request in accordance with the law of a participating jurisdiction for the enforcement in that jurisdiction of a NSW fine enforcement order, and	34 35 36
(b)	to request the amendment or withdrawal of enforcement action in that jurisdiction in accordance with the law of the participating jurisdiction, and	37 38 39
(c)	to exercise the functions of a fine enforcement officer under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	40 41
(2)	The Commissioner may make a request for the enforcement of a NSW fine enforcement order in a participating jurisdiction only if:	42 43
(a)	the liability of the offender to pay the NSW fine to which the NSW fine enforcement order applies has not been fully discharged, and	44 45
(b)	the Commissioner is satisfied that enforcement action under this Act has not been successful or is likely to be unsuccessful, and	46 47

	(c) there is reason to believe that the offender has a relevant connection with the participating jurisdiction, and	1 2
	(d) no other enforcement action is being taken in relation to the order in any other participating jurisdiction.	3 4
(3)	Subsection (2) does not affect any additional requirements that apply to a request for registration of a fine under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	5 6 7
(4)	The Commissioner may enter into arrangements with a participating jurisdiction for the payment to the Commissioner or the Commissioner's nominee of any amounts that are recovered in that jurisdiction in the enforcement of a NSW fine enforcement order.	8 9 10 11
(5)	Any amount recovered as a consequence of the enforcement in another jurisdiction of a NSW fine enforcement order (other than for enforcement costs) is to be dealt with as if the amount was paid on the imposition of the NSW fine.	12 13 14 15
(6)	For the purposes of this section, a request for registration of a NSW fine in another jurisdiction under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth is taken to be a request for enforcement of a NSW fine enforcement order.	16 17 18 19
<b>108N</b>	<b>Enforcement action in this jurisdiction prohibited during interstate enforcement action</b>	20 21
(1)	The Commissioner is not to take any further action under this Act in relation to the enforcement of a NSW fine enforcement order in this jurisdiction if the Commissioner has requested enforcement action in a participating jurisdiction or the fine has been registered in another jurisdiction under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	22 23 24 25 26
(2)	However, the Commissioner may take further action in relation to the enforcement of the NSW fine enforcement order:	27 28
	(a) if the NSW fine ceases to be a registered fine under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth (in the case of enforcement action authorised in a participating jurisdiction because the fine was a registered fine under Part 7 of that Act), or	29 30 31 32
	(b) if the participating jurisdiction, or a person or body acting on its behalf, provides written notice to the Commissioner that the participating jurisdiction has ceased enforcement action in that jurisdiction in relation to the order (in any other case).	33 34 35 36
(3)	This section has effect despite anything to the contrary in this Act.	37
<b>108O</b>	<b>Notification of payments made in this jurisdiction</b>	38
	The Commissioner must notify a participating jurisdiction of any payment made in this jurisdiction in relation to a NSW fine:	39 40
	(a) after the Commissioner requests enforcement action in relation to the fine in the participating jurisdiction, or	41 42
	(b) after the fine is registered in that jurisdiction under Part 7 of the <i>Service and Execution of Process Act 1992</i> of the Commonwealth.	43 44

<b>Division 4</b>	<b>Miscellaneous</b>	1
<b>108P</b>	<b>Relationship with Part 5</b>	2
	The provisions of this Part are in addition to, and do not derogate from, the provisions of Part 5.	3 4
<b>[44]</b>	<b>Part 8, heading</b>	5
	Omit the heading. Insert instead:	6
	<b>Part 8 Administration</b>	7
<b>[45]</b>	<b>Sections 113–116C</b>	8
	Omit sections 113–116A. Insert instead:	9
<b>113</b>	<b>Commissioner of Fines Administration</b>	10
	(1) There is to be a Commissioner of Fines Administration.	11
	(2) The Commissioner is to be employed in the Public Service.	12
	(3) In any Act, or any instrument made under an Act, a reference to the Commissioner of Fines Administration is a reference to the person employed in the Public Service to exercise the functions of the Commissioner.	13 14 15
<b>114</b>	<b>Functions of Commissioner</b>	16
	(1) The Commissioner has the functions conferred or imposed on the Commissioner by or under this or any other Act.	17 18
	(2) The Commissioner:	19
	(a) may enter into arrangements with persons who issue penalty notices, or on whose behalf penalty notices are issued, for or with respect to such penalty notices, including but not limited to:	20 21 22
	(i) amending such penalty notices to correct minor errors, and	23
	(ii) reviewing or withdrawing such penalty notices, and	24
	(iii) refunding amounts paid under such penalty notices, and	25
	(iv) the receipt, recovery and collection of amounts payable under such penalty notices, and	26 27
	(b) may receive, recover and collect, and may otherwise deal with, those amounts in accordance with those arrangements, and	28 29
	(c) may do all such things as may be necessary or convenient for the exercise of the functions referred to in paragraphs (a) and (b), including:	30 31
	(i) the issuing of court attendance notices, and	32
	(ii) the demanding and recovering of fees and charges with respect to the provision of services.	33 34
	(3) The Commissioner has the function of administering the following:	35
	(a) the making of fine enforcement orders,	36
	(b) the taking of enforcement action against fine defaulters under this Act,	37
	(c) the write off policy for outstanding fines,	38
	(d) the receipt and collection of fines.	39



<b>115</b>	<b>Use of name “State Debt Recovery”</b>	1
(1)	The Commissioner may, in the exercise of functions under this Act, use the name “State Debt Recovery”.	2 3
(2)	Legal proceedings may be taken by or against the Commissioner in the name “State Debt Recovery”.	4 5
(3)	The Commissioner may authorise the use of the name “State Debt Recovery” for any other purpose.	6 7
(4)	A person must not take proceedings or carry on any other activity under the name “State Debt Recovery” unless authorised to do so by or under this Act. Maximum penalty: 10 penalty units.	8 9 10
(5)	A person who takes proceedings in the name of “State Debt Recovery” is taken to be authorised to take those proceedings, in the absence of evidence to the contrary.	11 12 13
(6)	This section does not prevent proceedings from being taken by or against the Commissioner under the Commissioner’s title.	14 15
<b>116</b>	<b>Employees</b>	16
(1)	Persons may be employed in the Public Service to assist the Commissioner in the exercise of his or her functions.	17 18
(2)	The Commissioner may engage consultants or contractors to assist the Commissioner in the exercise of his or her functions.	19 20
<b>116A</b>	<b>Delegation</b>	21
(1)	The Commissioner may delegate to any person employed in the Public Service any function of the Commissioner under this Act, other than this power of delegation.	22 23 24
(2)	The Commissioner may delegate to any person any of the following functions of the Commissioner:	25 26
(a)	the function of serving notice of an order under section 59,	27
(b)	the function of notifying a fine defaulter of enforcement action under section 66,	28 29
(c)	the function of serving (but not issuing) an order for examination.	30
<b>116B</b>	<b>Exercise of enforcement functions</b>	31
(1)	An enforcement function may be exercised by the Commissioner or by any person employed in the Public Service who is authorised by the Commissioner to exercise that function.	32 33 34
(2)	A person authorised to exercise enforcement functions is an <i>authorised officer</i> for the purposes of this Act.	35 36
(3)	The Commissioner and any authorised officers have, in the exercise of enforcement functions, the same protection and immunities as officers of a court.	37 38 39
(4)	In this section, <i>enforcement function</i> means a function of the Commissioner of making or issuing an order or warrant under this Act.	40 41

<b>116C</b>	<b>Personal liability</b>	1
(1)	A matter or thing done or omitted by the Commissioner, an authorised officer or any other person engaged in the administration of this Act does not, if the matter or thing was done or omitted in good faith for the purpose of executing this Act, subject the Commissioner, authorised officer or other person so acting personally to any action, liability, claim or demand.	2 3 4 5 6
(2)	Any liability that would, but for subsection (1), attach to a person, attaches instead to the State.	7 8
<b>[46]</b>	<b>Section 117A Disclosure of information by Commissioner</b>	9
	Omit “The State Debt Recovery Office, the Director of the Office, a member of the staff of the Office” from section 117A (1).	10 11
	Insert instead “The Commissioner,”.	12
<b>[47]</b>	<b>Section 117A (1) (c) (iv) and (v)</b>	13
	Insert after section 117A (1) (c) (iii):	14
	(iv) to an officer or agency of a participating jurisdiction (within the meaning of Part 5A) in connection with a request for the enforcement of, or the enforcement of, a fine enforcement order in that jurisdiction, or	15 16 17 18
	(v) to an interstate fine enforcement authority (within the meaning of Part 5A), or other officer or agency of an originating jurisdiction for an interstate fine (within the meaning of that Part), in connection with a request for an interstate fine enforcement order, or	19 20 21 22 23
<b>[48]</b>	<b>Section 118 Registration of fine enforcement orders</b>	24
	Omit “by it”.	25
<b>[49]</b>	<b>Section 120 Guidelines on exercise of functions under this Act</b>	26
	Insert after section 120 (4):	27
	(5) In this section, <i>fine enforcement order</i> includes an interstate fine enforcement order (within the meaning of Part 5A) and <i>fine</i> includes an interstate fine the subject of such an order.	28 29 30
<b>[50]</b>	<b>Section 122B Payment of penalty notice amounts received on behalf of others</b>	31
	Omit “114 (1A)” from section 122B (1). Insert instead “114 (2)”.	32
<b>[51]</b>	<b>Section 122B (2)</b>	33
	Omit “the Office’s”. Insert instead “the Commissioner’s”.	34
<b>[52]</b>	<b>Section 122C</b>	35
	Insert after section 122B:	36
<b>122C</b>	<b>Reallocation of overpayments</b>	37
(1)	The Commissioner may reallocate any overpayment made by a person under a fine enforcement order towards the payment of amounts payable under any other fine enforcement order that is in force in relation to the person (instead of refunding the overpayment).	38 39 40 41

(2)	The Commissioner must notify the person concerned of the reallocation and of the right to apply for a refund of an inadvertent overpayment.	1 2
(3)	A person who makes an inadvertent overpayment may apply to the Commissioner for a refund of that overpayment.	3 4
(4)	The Commissioner must, on application by a person who has made an inadvertent overpayment that has been reallocated, revoke the decision to reallocate and refund the overpayment.	5 6 7
(5)	A failure by the Commissioner to give notice as required by this section does not affect the validity of a reallocation.	8 9
(6)	In this section: <i>fine enforcement order</i> includes an interstate fine enforcement order (within the meaning of Part 5A). <i>inadvertent overpayment</i> means an overpayment made otherwise than as a result of the withdrawal or annulment of a fine enforcement order. <i>overpayment</i> means any amount paid by a person under a fine enforcement order (including any amount paid towards enforcement costs) that, but for this section, would be repayable to the person (including because the fine enforcement order is withdrawn or annulled).	10 11 12 13 14 15 16 17 18
[53]	<b>Part 10</b>	19
	Insert after Part 9:	20
	<b>Part 10 Trial for enforcement of restitution orders</b>	21
133	<b>Definitions</b>	22
	In this Part:	23
	<i>confirmed</i> means:	24
(a)	confirmed by the Commissioner of Victims Rights or the Administrative Decisions Tribunal under section 63, 64 or 67 of the <i>Victims Rights and Support Act 2013</i> , or	25 26 27
(b)	confirmed by the Victims Compensation Tribunal under section 48 or 49 of the <i>Victims Support and Rehabilitation Act 1996</i> as in force before its repeal.	28 29 30
	<i>restitution order</i> means:	31
(a)	an order for restitution within the meaning of Part 5 of the <i>Victims Rights and Support Act 2013</i> , being an order that, but for this Part, would be enforceable under section 72 of that Act, or	32 33 34
(b)	an order for restitution within the meaning of Division 8 of Part 2 of the <i>Victims Support and Rehabilitation Act 1996</i> , as in force before its repeal.	35 36 37
	<i>trial</i> means the trial provided for by this Part.	38
	<i>trial period</i> means the period starting from (and including) the date of commencement of the <i>Fines Amendment Act 2013</i> and ending at the beginning of:	39 40 41
(a)	the first anniversary of the date of commencement of the <i>Fines Amendment Act 2013</i> , or	42 43
(b)	if a later date for the end of the trial period is prescribed by the regulations, the date so prescribed.	44 45

<b>134</b>	<b>Trial for enforcement of restitution orders</b>	1
(1)	There is to be a trial for the enforcement of restitution orders under this Act.	2
(2)	A restitution order may be enforced under the trial if:	3
(a)	it is confirmed before or during the trial period, and	4
(b)	the Commissioner of Fines Administration and the Commissioner of Victims Rights agree the order is to be enforced under the trial.	5 6
(3)	A restitution order becomes enforceable under the trial from the time it is referred by the Commissioner of Victims Rights to the Commissioner of Fines Administration, in accordance with that agreement, for enforcement under the trial.	7 8 9 10
(4)	The maximum number of restitution orders to be enforced under the trial is 1,000 or such greater number as is agreed from time to time between the Commissioner of Fines Administration and the Commissioner of Victims Rights.	11 12 13 14
<b>135</b>	<b>Effect of trial</b>	15
(1)	This Act extends to the enforcement of any amount payable under a restitution order that is enforceable under the trial as if that amount were a fine.	16 17
(2)	For the purposes of the trial:	18
(a)	an amount payable under a restitution order that is enforceable under the trial is taken to be a fine within the meaning of this Act, and	19 20
(b)	the fine is taken to have been imposed by a court, and	21
(c)	the fine is taken to be referred to the Commissioner of Fines Administration for the making of a court fine enforcement order when the order is referred by the Commissioner of Victims Rights to the Commissioner of Fines Administration for enforcement under the trial, and	22 23 24 25 26
(d)	the functions of the registrar of the court under this Act, in relation to the fine, may be exercised by the Commissioner of Victims Rights.	27 28
(3)	Sections 10 and 11 of this Act do not apply to an amount payable under a restitution order.	29 30
(4)	A payment arrangement cannot be made in respect of an amount payable under a restitution order after a court fine enforcement order has been made in respect of the amount, unless the court fine enforcement order is withdrawn.	31 32 33
(5)	Ordinary enforcement action is not to be taken in respect of an amount payable under a restitution order after a court fine enforcement order has been made in respect of the amount, unless the court fine enforcement order is withdrawn.	34 35 36
(6)	Section 69 applies in relation to a court fine enforcement order made in connection with a restitution order as if a reference to an appeal against conviction or sentence were a reference to an appeal against the restitution order.	37 38 39 40
(7)	Division 6 (Imprisonment) of Part 4 does not apply in relation to a restitution order.	41 42
(8)	In this section: <i>appeal</i> includes an application to the Administrative Decisions Tribunal for a review of the decision to confirm a restitution order.	43 44 45

<i>ordinary enforcement action</i> means any enforcement action under section 72, 73 or 76 of the <i>Victims Rights and Support Act 2013</i> or section 54 or 58A of the <i>Victims Support and Rehabilitation Act 1996</i> (as in force before its repeal).	1 2 3
<i>payment arrangement</i> means an arrangement under section 68 of the <i>Victims Rights and Support Act 2013</i> or section 50 of the <i>Victims Support and Rehabilitation Act 1996</i> (as in force before its repeal).	4 5 6
<b>136 Regulations</b>	7
(1) The regulations may make further provision for the enforcement of restitution orders under the trial, including by:	8 9
(a) modifying the operation of this Act in relation to restitution orders enforceable under the trial, and	10 11
(b) modifying the operation of the <i>Victims Rights and Support Act 2013</i> in relation to those restitution orders.	12 13
(2) A regulation under this Part is to be made only with the concurrence of the Attorney General.	14 15
(3) The Minister is not to recommend the making of a regulation under this Part unless the Minister certifies that the Attorney General has concurred in the making of the regulation.	16 17 18
<b>137 Repeal of Part</b>	19
This Part is repealed at the end of the trial period.	20
<b>[54] Schedule 1 Statutory provisions under which penalty notices issued</b>	21
Insert in appropriate order:	22
<i>Children (Education and Care Services) National Law (NSW)</i> , section 291	23
<i>Children (Education and Care Services) Supplementary Provisions Act 2011</i> , section 291 of the National Law Alignment Provisions	24 25
<i>Heavy Vehicle National Law (NSW)</i> , section 591	26
<b>[55] Schedule 3 Savings, transitional and other provisions</b>	27
Insert at the end of clause 1 (1):	28
any Act that amends this Act	29
<b>[56] Schedule 3, Part 11</b>	30
Insert after Part 10:	31
<b>Part 11 Provisions consequent on enactment of Fines Amendment Act 2013</b>	32 33
<b>28 Definition</b>	34
In this Part:	35
<i>amending Act</i> means the <i>Fines Amendment Act 2013</i> .	36
<b>29 Abolition of State Debt Recovery Office</b>	37
(1) The State Debt Recovery Office is abolished on the substitution of section 113 by the amending Act.	38 39

(2)	On the abolition of the State Debt Recovery Office, the following provisions have effect:	1 2
(a)	a reference in any Act, in any instrument made under any Act or in any document of any kind to the State Debt Recovery Office or a predecessor of the State Debt Recovery Office is (subject to the regulations) to be read as, or as including, a reference to the Commissioner,	3 4 5 6 7
(b)	any act, matter or thing done or omitted to be done by, to or in respect of the State Debt Recovery Office is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Commissioner,	8 9 10 11
(c)	all proceedings pending by or against the State Debt Recovery Office are taken to be proceedings pending by or against the Commissioner,	12 13
(d)	the assets, rights and liabilities of the State Debt Recovery Office vest in the Crown,	14 15
(e)	the assets vest in the Crown by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,	16 17
(f)	the Commissioner, on behalf of the Crown, has all the entitlements and obligations of the State Debt Recovery Office in relation to the assets, rights and liabilities that the State Debt Recovery Office would have had but for the abolition, whether or not those entitlements and obligations were actual or potential at the time the vesting takes effect.	18 19 20 21 22
(3)	An arrangement of a kind referred to in section 114 (1A) (as in force before the substitution of that section by the amending Act) and in effect immediately before the abolition of the State Debt Recovery Office is taken, on that abolition, to be an arrangement with the Commissioner.	23 24 25 26
(4)	In this clause: <i>assets</i> means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents. <i>liabilities</i> means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable). <i>rights</i> means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).	27 28 29 30 31 32 33 34 35
<b>30</b>	<b>Visitor driver privileges</b>	36
	The amendments made to Division 3 of Part 4 by the amending Act extend to fine enforcement orders made before the commencement of those amendments.	37 38 39
<b>31</b>	<b>Early enforcement arrangements</b>	40
	The amendments made to sections 13, 14, 42 and 100 by the amending Act extend to fines that were imposed, or amounts payable under penalty notices that were issued, before the commencement of those amendments.	41 42 43
<b>32</b>	<b>Appropriate officers</b>	44
	A person who, immediately before the amendment made to section 22 by the amending Act, was authorised as an appropriate officer for the purposes of Part 3 by the Chief Commissioner of State Revenue is taken, on the commencement of that amendment, to have been authorised as an appropriate	45 46 47 48

officer for the purposes of Part 3 by the Commissioner of Fines Administration.	1 2
<b>33 Interstate fine enforcement</b>	3
(1) An interstate fine enforcement order may be made under Part 5A, as inserted by the amending Act, in relation to the following interstate fines only:	4 5
(a) an interstate fine imposed after the commencement of that Part (a <i>post-commencement interstate fine</i> ),	6 7
(b) an interstate fine imposed before the commencement of that Part that is related to a post-commencement interstate fine,	8 9
(c) an interstate fine imposed before the commencement of that Part that is a serious interstate fine.	10 11
(2) An interstate fine imposed before the commencement of Part 5A is <i>related</i> to a post-commencement interstate fine if:	12 13
(a) the fines are imposed on the same offender, and	14
(b) the fines are imposed by orders in the same jurisdiction, and	15
(c) the liability of the offender to pay the post-commencement interstate fine has not been fully discharged.	16 17
(3) An interstate fine is a <i>serious interstate fine</i> if an interstate fine enforcement authority in relation to the fine certifies that the fine is a serious fine in the originating jurisdiction:	18 19 20
(a) because of the value of the fine, or	21
(b) because of the nature or seriousness of the conduct in relation to which the fine was imposed, or	22 23
(c) because the fine is not the first fine imposed on the offender in relation to the kind of offence, or alleged offence, for which it was imposed, or	24 25
(d) for any other reason.	26
(4) Division 3 of Part 5A extends to a NSW fine enforcement order made before the commencement of that Division.	27 28
<b>34 Trial period for enforcement of restitution orders</b>	29
(1) The repeal of Part 10, as inserted by the amending Act, at the end of the trial period provided for by that Part does not affect the operation of Part 10 or any regulations under Part 10 in respect of a restitution order that is enforceable under the trial.	30 31 32 33
(2) Part 10, and the regulations under Part 10, continue to apply in relation to such a restitution order as if that Part had not been repealed.	34 35

<b>Schedule 2</b>	<b>Amendment of other legislation</b>	1
<b>2.1</b>	<b>Bail Act 1978 No 161</b>	2
	<b>Sections 53I, 53J, 53K, 53L and 53N</b>	3
	Omit “State Debt Recovery Office” wherever occurring.	4
	Insert instead “Commissioner of Fines Administration”.	5
<b>2.2</b>	<b>Bail Act 2013 No 26</b>	6
	<b>Schedule 2 Forfeiture of security</b>	7
	Omit “State Debt Recovery Office” wherever occurring in clauses 12–15 and 17.	8
	Insert instead “Commissioner of Fines Administration”.	9
<b>2.3</b>	<b>Children (Community Service Orders) Act 1987 No 56</b>	10
<b>[1]</b>	<b>Section 28B Exchange of certain information</b>	11
	Omit section 28B (1). Insert instead:	12
	(1) The Director-General may enter into an arrangement ( <i>an information sharing arrangement</i> ) with the Commissioner of Fines Administration for the purposes of sharing or exchanging any information that is held by the Department or the Commissioner.	13 14 15 16
<b>[2]</b>	<b>Section 28B (2) and (3) (a)</b>	17
	Omit “State Debt Recovery Office” wherever occurring.	18
	Insert instead “Commissioner of Fines Administration”.	19
<b>[3]</b>	<b>Section 28B (3) (b)–(d)</b>	20
	Omit “Director of the State Debt Recovery Office” wherever occurring.	21
	Insert instead “Commissioner of Fines Administration”.	22
<b>2.4</b>	<b>Children (Detention Centres) Act 1987 No 57</b>	23
<b>[1]</b>	<b>Section 39B Exchange of certain information</b>	24
	Omit section 39B (1). Insert instead:	25
	(1) The Director-General may enter into an arrangement ( <i>an information sharing arrangement</i> ) with the Commissioner of Fines Administration for the purposes of sharing or exchanging any information that is held by the Department or the Commissioner.	26 27 28 29
<b>[2]</b>	<b>Section 39B (2) (b) and (3) (a)</b>	30
	Omit “State Debt Recovery Office” wherever occurring.	31
	Insert instead “Commissioner of Fines Administration”.	32
<b>[3]</b>	<b>Section 39B (3) (b)–(d)</b>	33
	Omit “Director of the State Debt Recovery Office” wherever occurring.	34
	Insert instead “Commissioner of Fines Administration”.	35



<b>2.5 Crimes (Administration of Sentences) Act 1999 No 93</b>	1
<b>Sections 4 (1) (b) and 257 (1) (d1)</b>	2
Omit “State Debt Recovery Office” wherever occurring.	3
Insert instead “Commissioner of Fines Administration”.	4
<b>2.6 Crimes (Administration of Sentences) Regulation 2008</b>	5
<b>Clause 30 Separation of different classes of inmates</b>	6
Omit “State Debt Recovery Office” from clause 30 (3) (e) (i).	7
Insert instead “Commissioner of Fines Administration”.	8
<b>2.7 Fines Regulation 2010</b>	9
<b>[1] Clause 4 Enforcement costs</b>	10
Omit “and 44 (1)” from clause 4 (1). Insert instead “, 44 (1) and 108J (1) (a)”.	11
<b>[2] Clauses 4 (1) (a) and (3) (b) and 5</b>	12
Omit “State Debt Recovery Office” wherever occurring. Insert instead “Commissioner”.	13
<b>[3] Clause 4 (2)</b>	14
Omit “section 14 (1A) or 42 (1AA) of the Act”.	15
Insert instead “section 14 (1B) (a) or (b) or 42 (1AA) (a) or (b) of the Act”.	16
<b>[4] Clause 4 (3) (a) (v)</b>	17
Omit “examination summons, as referred to in section 75 (7)”.	18
Insert instead “order for examination, as referred to in section 75A (1)”.	19
<b>[5] Clause 6 Commissioner may waive, postpone or refund costs and fees</b>	20
Omit “State Debt Recovery Office” and “it” from clause 6 (1).	21
Insert instead “Commissioner” and “the Commissioner” respectively.	22
<b>2.8 Food Act 2003 No 43</b>	23
<b>Section 133H Privacy and personal information</b>	24
Omit “State Debt Recovery Office” from section 133H (3).	25
Insert instead “Commissioner of Fines Administration”.	26
<b>2.9 Government Information (Public Access) Regulation 2009</b>	27
<b>Schedule 3 Agencies declared to be part of other agencies</b>	28
Omit the matter relating to the State Debt Recovery Office.	29
<b>2.10 Graffiti Control Act 2008 No 100</b>	30
<b>Section 9B Making of order for community clean up work</b>	31
Omit “State Debt Recovery Office” wherever occurring.	32
Insert instead “Commissioner of Fines Administration”.	33

<b>2.11 Intoxicated Persons (Sobering Up Centres Trial) Act 2013 No 15</b>	1
<b>Section 19 Application to Local Court to waive or reduce cost recovery charge</b>	2
Omit “State Debt Recovery Office” from section 19 (7).	3
Insert instead “Commissioner of Fines Administration”.	4
<b>2.12 Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013</b>	5
<b>[1] Clauses 8 (2) (b) and 11 (2) (c)</b>	6
Omit “State Debt Recovery Office” wherever occurring.	7
Insert instead “Commissioner of Fines Administration”.	8
<b>[2] Schedule 2 Modification of application of Part 4 of Fines Act 1996 No 99 to unpaid cost recovery charges</b>	9
Omit “State Debt Recovery Office” and “the Office” wherever occurring in item [8].	10
Insert instead “Commissioner of Fines Administration” and “the Commissioner” respectively.	11
<b>2.13 Road Transport Act 2013 No 18</b>	14
<b>Section 224 When immediate licence suspension notice may be issued by police officer</b>	15
Omit section 224 (6) (e) (iii). Insert instead:	16
(iii) the Commissioner of Fines Administration.	17
<b>2.14 Road Transport (Driver Licensing) Regulation 2008</b>	18
<b>[1] Clause 99 Interstate and international visitors</b>	19
Insert after clause 99 (4) (g):	20
(h) the visiting driver is a fine defaulter (within the meaning of the <i>Fines Act 1996</i> ) and the Authority suspends the visitor driver privileges of the fine defaulter in accordance with that Act.	21
<b>[2] Clause 99 (6)</b>	22
Omit “If the Authority forms an opinion that subclause (4) (f) or (g) applies”.	23
Insert instead “If subclause (4) (f), (g) or (h) applies”.	24
<b>[3] Clause 99 (6A)–(6C)</b>	25
Insert after clause 99 (6):	26
(6A) Subclause (4) (h) applies in relation to a visiting driver only while the suspension of the driver’s visitor driver privileges has effect.	27
(6B) A suspension of visitor driver privileges has effect until it is removed by the Authority in accordance with the <i>Fines Act 1996</i> .	28
(6C) If the Authority removes a suspension of visitor driver privileges in accordance with the <i>Fines Act 1996</i> , the Authority must give the visiting driver notice in writing stating that the exemption from the requirement to hold a driver licence in this State has been restored.	29
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<b>2.15 Road Transport (General) Regulation 2013</b>	1
<b>[1] Clause 120 Prescribed ground of exculpation in relation to average speed detection: section 129 (2) of Act</b>	2 3
Omit “State Debt Recovery Office” from clause 120 (1) (b).	4
Insert instead “Commissioner of Fines Administration”.	5
<b>[2] Schedule 4 Authorised officers</b>	6
Omit “Chief Commissioner of State Revenue” wherever occurring in the definition of <i>Class 1 officer</i> .	7 8
Insert instead “Commissioner of Fines Administration”.	9
<b>[3] Schedule 6 Savings and transitional provisions</b>	10
Insert after clause 2:	11
<b>3 Authorised officers</b>	12
A person who, immediately before the commencement of the amendments made to this Regulation by the <i>Fines Amendment Act 2013</i> , was authorised by the Chief Commissioner of State Revenue for the purposes of the definition of <i>Class 1 officer</i> in Schedule 4 is taken, on the commencement, to be authorised for the purposes of that definition by the Commissioner of Fines Administration.	13 14 15 16 17 18
<b>2.16 Road Transport (Vehicle Registration) Regulation 2007</b>	19
<b>Clause 42 Procedures for suspension and cancellation of registration</b>	20
Omit “State Debt Recovery Office” from clause 42 (3) (b).	21
Insert instead “Commissioner of Fines Administration”.	22
<b>2.17 Service NSW (One-stop Access to Government Services) Act 2013 No 39</b>	23 24
<b>[1] Section 8 CEO may enter agreements to exercise customer service functions</b>	25
Omit “State Debt Recovery Office” wherever occurring in section 8 (2) and (5).	26
Insert instead “Commissioner of Fines Administration”.	27
<b>[2] Section 8 (2) and (5)</b>	28
Omit “114 (1A)” wherever occurring. Insert instead “114 (2)”.	29