

Passed by both Houses



New South Wales

Fines Amendment Bill 2019

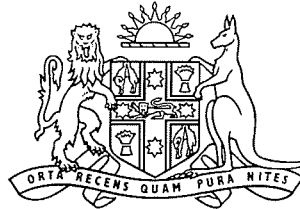
Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Fines Act 1996 No 99	3
Schedule 2	Amendment of other legislation	16

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2019



New South Wales

Fines Amendment Bill 2019

Act No , 2019

An Act to amend the *Fines Act 1996* in relation to fines and their enforcement; to amend the *Road Transport Act 2013* in relation to the nomination of persons responsible for camera recorded offences and parking offences; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Fines Amendment Act 2019*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Fines Act 1996 No 99

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—
approved electronic manner—see section 4A.

[2] Section 3(1), definition of “combined payment arrangement”

Omit the definition.

[3] Section 4A

Insert after section 4—

4A Electronic service of penalty notices and other documents

- (1) For the purposes of this Act, an *approved electronic manner* of issuing a penalty notice to a person or serving a penalty reminder notice or fine enforcement order on a person means—
 - (a) sending the penalty notice, penalty reminder notice or fine enforcement order, or a penalty notification, to a telephone number or email address provided by the person for the purposes of the issue or service of the notice or order, or
 - (b) providing the person access to the penalty notice, penalty reminder notice or fine enforcement order, or a penalty notification, via the online notification system if the person consents to the use of that system, or
 - (c) any other electronic manner prescribed by the regulations.
- (2) A person may, orally or in writing, provide an email address or telephone number or consent to the use of the online notification system for the purposes of receiving or accessing—
 - (a) a particular penalty notice, penalty reminder notice or fine enforcement order, or
 - (b) a particular kind of penalty notice, penalty reminder notice or fine enforcement order, or
 - (c) penalty notices, penalty reminder notices or fine enforcement orders for a particular period, or
 - (d) all penalty notices, penalty reminder notices or fine enforcement orders.
- (3) A penalty notice may not be issued to a person, or a penalty reminder notice or fine enforcement order served on a person, in an approved electronic manner if the person is under the age of 16 years.
- (4) This section does not authorise a penalty notice to be issued to a person, or a penalty reminder notice or fine enforcement order to be served on a person, orally.
- (5) In this section—

online notification system means an online system approved by the Commissioner for the purposes of enabling a person to securely access, by means of a website, mobile telephone or mobile device or by other electronic means, a penalty notice, penalty reminder notice, fine enforcement order or penalty notification that is issued to, or made in respect of, the person.

penalty notification means a written notification stating the following—

 - (a) a penalty notice, penalty reminder notice or fine enforcement order (as the case requires) has been issued to, or made in respect of, the person,

- (b) the sending of the penalty notification to the person, or providing the person access to the penalty notification, is taken to be the issue of the penalty notice to the person or service of the penalty reminder notice or fine enforcement order on the person (as the case requires),
 - (c) how the person can access the penalty notice, penalty reminder notice or fine enforcement order by means of a website, mobile telephone or mobile device or by other electronic means.
- (6) In this section, a reference to a fine enforcement order is a reference to notice of a fine enforcement order.
- Note.** Division 2 of Part 4 requires notice of a fine enforcement order to be served on the person liable to pay the fine concerned.

[4] Sections 11(8), 80(4)(b), 99A (definition of “approved organisation”) and 112B (paragraph (b) of definition of “appropriate custodial officer”)

Omit “Department of Justice” wherever occurring.

Insert instead “Department of Communities and Justice”.

[5] Section 13 Referral for a court fine enforcement order

Omit section 13(1)(b)–(d). Insert instead—

- (b) the person seeks a work and development order or time to pay order in relation to the fine.

[6] Section 14 When an order may be made

Omit section 14(1B). Insert instead—

- (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 the person seeks a work and development order or time to pay order in relation to the fine.

[7] Section 14(1C)

Omit “(c) or (d),”.

[8] Section 17, note

Omit “under fine enforcement orders”.

[9] Section 19 Summary of penalty notice procedure

Omit section 19(1)(b1). Insert instead—

(b1) **Internal review**

A reviewing agency may conduct a review of the decision to issue the penalty notice, including after a penalty notice enforcement order has been made. After conducting a review, the agency may withdraw the penalty notice or penalty notice enforcement order or confirm the decision. If the decision is confirmed, the agency may serve a penalty reminder notice or, if a penalty notice enforcement order has been made, take enforcement action (see Division 2A).

[10] Section 19(1)(e)

Omit the paragraph. Insert instead—

(e) **Withdrawal of enforcement order**

A penalty notice enforcement order may, on application or the Commissioner's own initiative, be withdrawn by the Commissioner (see Division 5).

[11] Section 19(1)(f)

Omit "the Commissioner or, if the Commissioner refuses the application, by".

[12] Sections 19A(3) (definition of "guidelines") and 22(2)(b)

Omit "in the Department of Finance, Services and Innovation" wherever occurring.

[13] Section 21 Issue of penalty notices

Insert after section 21(2)(b)—

(b1) in an approved electronic manner, or

[14] Section 21(3)–(5)

Omit the subsections.

[15] Section 21(6)

Omit "electronically". Insert instead "in an approved electronic manner".

[16] Section 23 Amount payable under penalty notice

Insert after section 23(5)—

(6) Despite any other provision of this Act or any other Act or law, the Commissioner may, on application by a person to whom a penalty notice is issued, reduce by 50% the amount required to be paid under the penalty notice if—

(a) at the time the person committed the offence specified in the penalty notice, the person was in receipt of a Government benefit, and

(b) the Commissioner thinks it is appropriate having regard to the relevant guidelines issued under section 120.

(7) In subsection (6), a person in receipt of a Government benefit includes the following—

(a) a holder of a Health Care Card, Ex-Carer Allowance (Child) Health Care Card or Commonwealth Seniors Health Card issued on behalf of the Commonwealth,

(b) a person in receipt of the Disability Support Pension or Newstart, ABSTUDY Living or Widow Allowance under a law of the Commonwealth.

[17] Section 24A Application for review of penalty notice

Omit section 24A(2) and (3). Insert instead—

(2) An application for a review must include the grounds on which the review is sought (including supporting evidence) and must be made—

(a) to the Commissioner in an approved form—in the case of a fine under a penalty notice that is payable to the Commissioner, or

(b) to the issuing agency in the form approved by the agency—in any other case.

- (3) An application for a review may, subject to subsection (3A), be made at any time, including after—
 - (a) the whole or part of the amount payable under the penalty notice has been paid, or
 - (b) a penalty notice enforcement order has been made in relation to the penalty notice.
- (3A) If the whole of the amount payable under the penalty notice has been paid and no penalty reminder notice has been served in respect of the offence, an application for a review must be made not later than 60 days after the penalty notice was issued.

[18] Section 24F Action to be taken if decision to issue penalty notice is confirmed

Insert after section 24F(2)—

- (3) This section does not apply if—
 - (a) a penalty notice enforcement order has been made in respect of the offence, or
 - (b) the person has elected to have the matter dealt with by a court under section 23A or 36.

Note. If a penalty notice enforcement order has been made in relation to a penalty notice and the decision to issue the penalty notice is confirmed in a review under this Division, enforcement action may be taken against the person under Part 4.

[19] Section 24G Effect of withdrawal of penalty notice

Insert “or penalty notice enforcement order” after “reminder notice” in section 24G(2)(a).

[20] Section 28 Service of penalty reminder notices

Omit section 28(1)(d). Insert instead—

- (d) in an approved electronic manner, or

[21] Section 28(2)

Omit “service of any such penalty reminder notice”.

Insert instead “personal service or service by post or document exchange of a penalty reminder notice”.

[22] Section 36 How a person may elect to have matter dealt with by court

Omit section 36(2A) and the note. Insert instead—

- (2A) Despite subsection (2), a person may make an election at any time while a review under Division 2A of the decision to issue the penalty notice is in progress, provided the person applied for the review on or before the due date specified in the penalty reminder notice for payment in relation to the offence concerned.

[23] Section 36(3)

Omit “by facsimile or other electronic transmission”.

Insert instead “by electronic means approved by the Commissioner”.

[24] Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty

Omit section 38(1). Insert instead—

- (1) A person on whom a penalty reminder notice is served in relation to a vehicle or vessel offence is not liable to make any payment under the penalty notice if—
- (a) on or before the due date specified in the penalty reminder notice, the appropriate officer receives an approved nomination notice containing the name and address of the person who was in charge of the vehicle or vessel concerned at all relevant times relating to the offence, or
 - (b) the person satisfies the appropriate officer that the person did not know and could not with reasonable diligence have ascertained that name and address.

[25] Section 38(2)

Omit “for use when nominating persons under this section as persons in charge of vehicles or vessels”.

Insert instead “to be used to nominate the person in charge of a vehicle or vessel under this section”.

[26] Section 38(3A)

Omit “for the penalty notice to which the penalty reminder notice relates”.

[27] Section 38(3E)

Omit “another person”.

Insert instead “a person (including the person making the nomination)”.

[28] Section 38(3F)

Omit “another person”. Insert instead “a person”.

[29] Section 38(3F)

Omit “other”.

[30] Section 38(4)

Insert in alphabetical order—

appropriate officer, in relation to a penalty reminder notice, means an appropriate officer for the penalty notice to which the penalty reminder notice relates or another person or body specified in the penalty reminder notice.

[31] Section 40 What is a penalty notice enforcement order?

Insert after section 40(2)—

- (3) The regulations may make provision for or with respect to the making of penalty notice enforcement orders.

[32] Section 42 When a penalty notice enforcement order may be made

Omit section 42(1)(a1). Insert instead—

- (a1) there is no review under Division 2A in progress, and

[33] Section 42(1AA)

Omit the subsection. Insert instead—

- (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 receives an application by the person for a work and development order or time to pay order in relation to the amount.

[34] Section 42(1CC)

Omit the subsection. Insert instead—

- (1CC) On the making of an order under subsection (1AA), the person who has been issued with the penalty notice to which the order relates can no longer elect to have the matter dealt with by a court under section 23A or 36.

Note. See Division 5 for the circumstances in which the Local Court may deal with matters relating to penalty notice enforcement orders.

[35] Section 45 Effect of making, or of payment under, penalty notice enforcement order

Insert “withdrawal or” before “annulment” in section 45(4).

[36] Sections 46, 47 and 48–49A

Omit the sections.

[37] Part 3, Division 5, heading

Omit “**Annulment**”. Insert instead “**Withdrawal and annulment**”.

[38] Sections 46 and 47

Insert after the heading to Division 5 of Part 3—

46 Application for withdrawal of penalty notice enforcement order

- (1) A person against whom a penalty notice enforcement order is made may apply to the Commissioner for the withdrawal of the order.
- (2) An application for withdrawal is to be made in the approved form and may be made by or on behalf of the person against whom the penalty notice enforcement order was made.
- (3) A person may not make more than one application under this section in relation to the same matter, except with the leave of the Commissioner.
- (4) The Commissioner is to decide whether or not to withdraw a penalty notice enforcement order in the absence of the parties, unless the Commissioner otherwise determines.
- (5) The Commissioner must give notice of a decision about an application for the withdrawal of a penalty notice enforcement order to all parties.

47 Grounds for withdrawal of penalty notice enforcement order

- (1) The Commissioner may, on application under section 46 or the Commissioner’s own initiative, withdraw a penalty notice enforcement order on any of the following grounds—
 - (a) a fine to which the penalty notice enforcement order applies has previously been the subject of a penalty notice enforcement order in respect of which any enforcement action has been taken,
 - (b) the person named in the penalty notice enforcement order is not the same person as the person in respect of whom a fine to which the order applies was imposed,
 - (c) the order relates to the owner of a vehicle or vessel, being a vehicle or vessel involved in an offence the subject of the fine at a time when the owner was not the owner of the vehicle or vessel concerned,

- (d) the penalty notice for the fine to which it applies is withdrawn by the Commissioner under an arrangement under section 114,
- (e) the person was not aware that a penalty notice had been issued until notice of the order was served, but only in the case of an application for withdrawal that is made within a reasonable time after that service,
- (f) the person was otherwise hindered by accident, illness, misadventure or other cause from taking action in relation to the penalty notice, but only in the case of an application for withdrawal that is made within a reasonable time after the person ceased being so hindered,
- (g) the penalty reminder notice in relation to a particular offence was, or both the penalty notice and the penalty reminder notice were, returned as being undelivered to its sender after being sent to the person at the person's recently reported postal address (within the meaning of section 126A) and notice of the order was served on the person at a different postal address,
- (h) the Commissioner is satisfied that a question or doubt arises as to the person's liability for the penalty or other amount concerned,
- (i) the Commissioner is satisfied that there is other just cause why the application should be granted, having regard to the circumstances of the case.

Note 1. The Commissioner may, on the Commissioner's own initiative, withdraw a penalty notice enforcement order under this section if an approved nomination notice in respect of the penalty notice to which the penalty notice enforcement order applies is provided to an appropriate officer under section 38 out of time.

Note 2. Section 24G(2) provides that a penalty notice enforcement order is taken to be withdrawn if the Commissioner or the issuing agency conducting an internal review of the decision to issue a penalty notice under Division 2A decides to withdraw the penalty notice.

- (2) If the Commissioner withdraws a penalty notice enforcement order and all of the following apply, the Commissioner must refer the matter to the Local Court to hear and determine the matter under section 51—
 - (a) the withdrawal is made following an application under section 46,
 - (b) the order is withdrawn on any of the grounds referred to in subsection (1)(e)–(g),
 - (c) the penalty notice to which the order applies is not withdrawn,
 - (d) the person concerned disputes the person's liability to pay the amount payable under the penalty notice to which the order relates.
- (3) The Commissioner must withdraw a penalty notice enforcement order if the application for withdrawal is made by an appropriate officer for the penalty notice to which the order applies.
- (4) To avoid doubt, the Commissioner may withdraw a penalty notice enforcement order under this section even if section 126A(1) permitted the service of a penalty reminder notice in relation to a particular offence referred to in the fine enforcement order or section 126A(2) permitted the making of the penalty notice enforcement order (or both).

[39] Section 50 Appeal against refusal to withdraw penalty notice enforcement order

Omit “an application for annulment” from section 50(1).

Insert instead “to withdraw a penalty notice enforcement order under section 47”.

[40] Section 50(1)

Omit “original application determined”.

Insert instead “penalty notice enforcement order annulled”.

[41] Section 50(3)

Omit the subsection. Insert instead—

- (3) The Local Court may annul a penalty notice enforcement order on any of the grounds on which the Commissioner may withdraw a penalty notice enforcement order under section 47.

[42] Section 51 Proceedings in Local Court after withdrawal or annulment of penalty notice enforcement order

Omit “annulled by the Local Court (or is annulled by the Commissioner and referred to the Local Court)” from section 51(1).

Insert instead “withdrawn by the Commissioner and referred to the Local Court under section 47(2) or annulled by the Local Court under section 50”.

[43] Section 51(2)

Insert “under section 50” after “order”.

[44] Section 51(4)

Omit “the annulment of”.

[45] Section 52 Provisions relating to withdrawal and annulment of penalty notice enforcement orders

Omit section 52(1) and (3). Insert instead—

- (1) The Commissioner or the Local Court, when deciding whether or not to withdraw or annul a penalty notice enforcement order under this Division, may stay enforcement action under the penalty notice enforcement order subject to such terms and conditions as the Commissioner or Court thinks fit.
- (2) A penalty notice enforcement order may be withdrawn or annulled completely or only to the extent of some of the penalty notices to which it applies.

[46] Section 52(4) and (5)

Insert “withdrawn or” before “annulled” wherever occurring.

[47] Section 52(4)(d)

Omit “annulment of the order under section 49(1)(a)”.

Insert instead “withdrawal of the order under section 46”.

[48] Section 52(6)–(8)

Omit section 52(7). Insert instead—

- (6) The withdrawal of a penalty notice enforcement order under section 47 does not prevent the making of a further order in respect of the penalty notice.
- (7) If a penalty notice enforcement order is withdrawn by the Commissioner under section 47 or annulled by the Local Court under section 50, the period within which proceedings for an offence may be instituted in respect of the matter under section 179 of the *Criminal Procedure Act 1986* or any other Act

commences on the date the order is withdrawn or annulled (as the case requires).

- (8) The regulations may make provision for or with respect to the following—
- (a) the withdrawal of penalty notice enforcement orders,
 - (b) applications for withdrawals and fees for applications,
 - (c) the practice and procedure of the Commissioner when making decisions about withdrawals.

[49] Section 52, note

Omit “under fine enforcement orders”.

[50] Section 53 Application of penalty notice procedure to children

Insert “withdrawal or” before “annulment” in section 53 (3).

[51] Section 59 Service on fine defaulter of notice of order

Insert at the end of the section—

- (2) However, the Commissioner is not required to serve notice of a court fine enforcement order made under section 14(1B) or a penalty notice enforcement order made under section 42(1AA).

[52] Section 61 Service of notice

Omit section 61(1)(d). Insert instead—

- (d) in an approved electronic manner, or

[53] Section 61(2) and (3)

Omit “service of any such notice” wherever occurring.

Insert instead “personal service or service by post or document exchange of notice”.

[54] Section 64A

Insert after section 64—

64A Amendment of fine enforcement order

- (1) The Commissioner may at any time, on the application of a fine defaulter or on the Commissioner’s own initiative, amend a fine enforcement order to correct an error.
- (2) An amendment is to be made by notice served on the fine defaulter in the same way as the notice of the fine enforcement order.
- (3) An amendment cannot increase the amount of the fine payable under the order.
- (4) The Commissioner must give the fine defaulter written notice of the amendment as soon as practicable after amending the fine enforcement order.
- (5) An amendment made to a fine enforcement order does not affect the validity of anything done before that amendment in relation to the amount owed.

[55] Section 100 Time to pay

Omit section 100(1) and (1A). Insert instead—

- (1) At any time before a community correction order or community service order is issued under Division 5, a fine defaulter may make an application to the Commissioner for time to pay a fine.

[56] Section 100(4B)

Omit “and may provide for a combined payment arrangement”.

[57] Section 100(7)

Omit the subsection.

[58] Sections 108E(3) and 108G(2)

Omit “, facsimile or other electronic transmission” wherever occurring.

Insert instead “or by electronic means approved by the Commissioner”.

[59] Section 112E Time to pay orders

Omit the section.

[60] Section 117C

Insert after section 117B—

117C Unlawful disclosure of personal information

- (1) If the Commissioner becomes aware of an unlawful disclosure of personal information about an individual that is held by the Commissioner, the Commissioner must, within 28 days after becoming aware of the disclosure, notify the individual of that disclosure in accordance with any directions given to the Commissioner by the Privacy Commissioner in relation to the matter.
- (2) However, the Commissioner is not required to notify the individual of the disclosure if the Privacy Commissioner advises that notification is not appropriate in the circumstances.
- (3) The Privacy Commissioner is to include information about all unlawful disclosures under this section in the Privacy Commissioner’s annual report for the period in which the disclosures occurred.
- (4) In this section—
personal information has the same meaning as in the *Privacy and Personal Information Protection Act 1998*.

[61] Section 120 Guidelines on exercise of functions under this Act

Insert after section 120(1)(d)—

- (e) the class of persons in respect of whom the Commissioner must not make a reallocation of an overpayment under section 122C.

[62] Section 122C

Omit the section. Insert instead—

122C Refunds and reallocation of overpayments

- (1) The Commissioner must refund the following to a person—
- (a) any amount received from the person that exceeds the amount payable to the Commissioner by the person under this Act,
- (b) any amount repayable to the person under this Act.

- (2) The Commissioner may, instead of refunding an amount to a person, reallocate the amount towards the payment of any other amount payable by the person under this Act (a *reallocation*).
- (3) The Commissioner must not, unless requested by the person, make a reallocation of an amount otherwise refundable to a person under this section if the person—
 - (a) was in receipt of a Government benefit at the time the person became entitled to the refund, or
 - (b) belongs to a class of persons specified in guidelines issued under section 120.
- (4) The Commissioner must notify a person of the reallocation of an amount otherwise refundable to the person under this section and, if the reallocation relates to an inadvertent overpayment by the person, the Commissioner must notify the person of the right to request a refund of the inadvertent overpayment.
- (5) If the Commissioner makes a reallocation of an amount towards the payment of a penalty notice issued to the person, the Commissioner must also notify the person of any of the following rights that the person has—
 - (a) the right to have the matter to which the penalty notice relates dealt with by a court under section 23A or sections 35 and 36,
 - (b) the right to apply for a review of the decision to issue the penalty notice under section 24A,
 - (c) the right to give an approved nomination notice under section 38.
- (6) If the Commissioner makes a reallocation of an amount towards the payment of a penalty notice and the whole of the amount payable under the penalty notice is paid, the following applies—
 - (a) an election under section 23A or 36 may be made within 90 days of the date of the reallocation,
 - (b) an application for a review of the decision to issue the penalty notice under section 24A may be made within 60 days of the date of the reallocation,
 - (c) a nomination under section 38 may be made within 90 days of the date of the reallocation,
 - (d) a relevant nomination document may be provided to the authorised officer or informant (as the case requires) under section 185(1) of the *Road Transport Act 2013* within 90 days of the date of the reallocation.
- (7) If a person who has made an inadvertent overpayment that has been reallocated by the Commissioner under this section requests a refund of the inadvertent overpayment, the Commissioner must revoke the decision to make the reallocation and refund the inadvertent overpayment.
- (8) A failure by the Commissioner to give notice as required by this section does not affect the validity of a reallocation.
- (9) In this section—

fine enforcement order includes an interstate fine enforcement order (within the meaning of Part 5A).

inadvertent overpayment means any amount paid by a person under a penalty notice or fine enforcement order (including any amount paid towards enforcement costs) that is repayable to the person under this Act but does not

include an amount that is repayable because of the withdrawal of a penalty notice or the withdrawal or annulment of a fine enforcement order.

[63] Section 126A Penalty notices and penalty reminder notices sent to recently reported postal address and returned to sender

Insert “postal” after “reported” wherever occurring in section 126A(1) and (2).

[64] Section 126A(3)

Omit “*recently reported address*”. Insert instead “*recently reported postal address*”.

[65] Section 126A(3)(a)

Insert “postal” before “address”.

[66] Section 126A(3)(b)

Omit “an address”, “a different address” and “that address”.

Insert instead “a postal address”, “a different postal address” and “that postal address”, respectively.

[67] Section 126A(3)(c)

Omit “an address” and “the address”.

Insert instead “a postal address” and “the postal address”, respectively.

[68] Section 126A, note

Omit “must annul”. Insert instead “may withdraw”.

[69] Section 126A, note

Omit “section 49”. Insert instead “section 47”.

[70] Sections 129, 131 and 132

Omit the sections.

[71] Schedule 3 Savings, transitional and other provisions

Omit “(Section 131)”.

[72] Schedule 3, Part 17

Insert after clause 47—

Part 17 Provisions consequent on enactment of Fines Amendment Act 2019

48 Definition

In this Part, *amending Act* means the *Fines Amendment Act 2019*.

49 Early enforcement arrangements

The amendments made to sections 13, 14, 42 and 100 by the amending Act extend to a fine that was imposed, or an amount payable under a penalty notice that was issued, before the commencement of the amendment to section 13.

50 Electronic service of documents

Sections 21, 28 and 61, as amended by the amending Act, apply to a penalty notice issued to a person, or a penalty reminder notice or notice of a fine enforcement order served on a person, on or after the commencement of the amendment to section 21(2), regardless of—

- (a) when the offence occurs, and
- (b) when a penalty notice is issued to, or a penalty reminder notice or notice of a fine enforcement order is served on, the person in relation to the same matter.

51 Internal review of penalty notices

Section 24A, as amended by the amending Act, applies to an application made after the commencement of the amendment to that section, regardless of when the penalty notice is issued.

52 Nomination in vehicle and vessel offences

Section 38, as amended by the amending Act, applies in relation to a vehicle or vessel offence committed or alleged to have been committed on or after the commencement of the amendment to section 38(1).

53 Withdrawal and annulment of penalty notice enforcement orders

Sections 46–52, as amended by the amending Act, apply to an application for the withdrawal or annulment of a penalty notice enforcement order made after the substitution of section 46, regardless of when the order was made.

54 Refunds and reallocation of overpayments

Section 122C, as substituted by the amending Act, applies to any amount in respect of which a person becomes, on or after the substitution, entitled to a refund.

Schedule 2 Amendment of other legislation

2.1 Fines Regulation 2015

[1] **Part 2, heading**

Omit “and fees”.

[2] **Clauses 5 and 6(3) and (4)**

Omit the provisions.

[3] **Clause 6 Waiver, postponement or refund of costs**

Omit “section 14(1B)(a) or (b)” and “section 42(1AA)(a) or (b)” from clause 6(2).

Insert instead “section 14(1B)” and “section 42(1AA)”, respectively.

2.2 Road Transport Act 2013 No 18

[1] **Section 183 Definitions**

Insert at the end of the definition of *relevant nomination document* in section 183 (1)—

Note. A person (other than the responsible person) who was in charge of a vehicle at the time a designated offence occurred may provide an approved nomination document or statutory declaration.

[2] **Section 185 When responsible person not liable for parking offence**

Omit section 185(1). Insert instead—

- (1) Despite section 184, the responsible person for a vehicle is not guilty of a parking offence by the operation of that section if—
 - (a) the offence is dealt with under Division 3 and the authorised officer under section 195 receives a relevant nomination document containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence (the *liable person*) within 21 days after service on the responsible person of a penalty notice for the offence, or
 - (b) the offence is not dealt with under Division 3 and the informant receives a statutory declaration containing the name and address of the liable person within 21 days after service on the responsible person of a court attendance notice for the offence, or
 - (c) the responsible person satisfies the authorised officer or the court hearing the proceedings for the offence (as the case requires) that the responsible person did not know and could not with reasonable diligence have ascertained the name and address of the liable person.

[3] **Section 186 Duty to inform if person not driver of vehicle committing camera recorded offence**

Insert after section 186(1)—

- (1A) However, a person is not required to provide a relevant nomination document under subsection (1), and is taken to have complied with this section, if the person who was in charge of the vehicle at the time the offence occurred has already provided a relevant nomination document containing the person’s name and address to the authorised officer or the prosecutor (as the case requires).

[4] Section 186(3)

Omit “by a person served with”. Insert instead “in relation to”.

[5] Section 186(3)

Omit “on the person”.

[6] Section 188 Offences relating to nominations

Omit “another person” from section 188(2).

Insert instead “a person (including the person making the nomination)”.

[7] Section 188(3)

Omit “another person”. Insert instead “a person”.

[8] Section 188(3)

Omit “other”.

[9] Section 189 Nominations by responsible persons

Omit “for use by responsible persons when nominating other persons under this section as persons in charge of vehicles for which they are the responsible persons” from section 189(1).

Insert instead “to be used to nominate the person in charge of a vehicle”.

[10] Section 189(3)

Omit the subsection. Insert instead—

- (3) An authorised officer may, by written notice (a *verification notice*) served on a person who gives an approved nomination document, require the person to supply a statutory declaration for use in court proceedings verifying any of the information contained in the approved nomination document that is specified in the verification notice.

[11] Section 192 Further identity information from nomination information provider

Insert at the end of paragraph (b) of the definition of *nomination information provider* in section 192(4)—

, or

- (c) in the case of a document supplied by a natural person nominating themselves as the person in charge of the vehicle concerned—the person who supplies the document.

2.3 Road Transport (General) Regulation 2013

Schedule 5 Penalty notice offences

Insert in appropriate order in the matter relating to the *Road Transport Act 2013*—

Section 189(4)—

- | | | | |
|-----|---|---------|----------|
| (a) | in the case of an individual | Class 1 | Level 8 |
| (b) | in the case of a corporation— | | |
| (i) | for the first offence, or the first offence within the last 5 years | Class 1 | Level 12 |

(ii) for the second or subsequent offence within the last 5 years Class 1 Level 17