

## Overview of Bill

The *Fines Act 1996* enables the State Debt Recovery Office to make a work and development order to enable a fine defaulter who has an intellectual disability, a mental illness or a cognitive impairment, is homeless or is experiencing acute economic hardship to satisfy the fine concerned by undertaking certain activities specified in the order (for example, unpaid work, medical treatment or counselling).

The object of this Bill is to amend the *Fines Act 1996*:

(a) to extend the categories of persons who are eligible to be the subject of a work and development order to persons who have a serious addiction to drugs, alcohol or volatile substances, and

(b) to enable the State Debt Recovery Office to rely on the assessment of an approved organisation or a health practitioner as to whether a person meets certain eligibility criteria for a work and development order, and

(c) to facilitate the appropriate administration of work and development orders.

## 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 a day or days to be appointed by proclamation.

## **Schedule 1 Amendment of Fines Act 1996 No 99**

### **Expansion of eligibility criteria for work and development orders**

**Schedule 1 [4]** amends section 99B of the Act to enable a work and development order to be made in relation to a fine defaulter who has a serious addiction to drugs, alcohol or volatile substances. **Schedule 1 [6]** amends that section to provide that, if an order is made in relation to such a fine defaulter, the only activities that may be carried out under the order are counselling and drug or alcohol treatment unless the fine defaulter also satisfies another of the existing criteria for the making of an order (such as, for example, having a mental illness).

### **Assessment of eligibility for work and development orders**

**Schedule 1 [5]** amends section 99B of the Act to remove the requirement that an application for a work and development order always be accompanied by supporting evidence.

**Schedule 1 [7]** inserts section 99BA into the Act to require the State Debt Recovery Office, when determining an application for the making of a work and development order in relation to a particular fine defaulter, to rely on an assessment (if provided by an approved person supporting the application) that the fine defaulter meets certain criteria for eligibility. Those criteria are that the fine defaulter has a mental illness, has an intellectual disability or cognitive impairment, is homeless or is experiencing acute economic hardship or has a serious addiction to drugs, alcohol or volatile substances. The State Debt Recovery Office need not rely on such an assessment if it has information that gives it reason to believe that it should not.

The proposed section requires an approved person supporting an application for a work and development order or making an assessment of eligibility for an order to keep supporting evidence and enables the State Debt Recovery Office to require the production of that evidence. The proposed section also enables the State Debt Recovery Office to waive a requirement that an application for a work and development order or an assessment of eligibility for such an order be supported by a particular type of evidence.

**Schedule 1 [1] and [2]** make consequential amendments.

### **Miscellaneous**

**Schedule 1 [8]** amends section 99C of the Act to enable the State Debt Recovery Office to vary or revoke a work and development order if it is of the opinion that false or misleading information has been given in connection with the application for the order or a report of an approved person in relation to the order or the person subject to the order does not meet, or no longer meets, the eligibility criteria specified in the

application for the order as a ground for the making of the order. An order may also  
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be varied or revoked if the State Debt Recovery Office is of the opinion that an approved person in relation to the order cannot continue to supervise the activities under the order, or has breached the person's obligations under the Act as an approved person, or that the person supervising the activities under the order is no longer an approved person.

**Schedule 1 [9]** substitutes section 99I of the Act which deals with the issuing of guidelines in relation to work and development orders by the Attorney General in consultation with the Treasurer. Instead, the Minister administering the *Crimes (Sentencing Procedure) Act 1999* (currently, the Attorney General), in consultation with the Minister administering the State Debt Recovery Office, will be able to issue guidelines that are published on the NSW legislation website with respect to work and development orders. The State Debt Recovery Office, approved persons supporting applications for work and development orders and other persons exercising functions under the relevant provisions of the Act are required to comply with the guidelines. **Schedule 1 [3]** makes a consequential amendment.

**Schedule 1 [10]** amends section 99J of the Act to remove the regulation-making power that currently enables the regulations to limit the period for which the work and development orders scheme is to operate. The *Fines Regulation 2010* was amended on 8 July 2011 to remove the clause that provided for that scheme to expire on 10 July 2011.

**Schedule 1 [11]** amends the Act to enable regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.