



New South Wales

Fines Amendment Bill 2004

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Fines Act 1996* (the ***Principal Act***) for the following purposes:

- (a) to include procedural provisions relating to fine enforcement orders, community service orders and periodic detention orders and other matters that are currently contained in regulations,
- (b) to make it clear that the State Debt Recovery Office has a discretion as to whether it makes a court fine enforcement order on referral of a matter to it by the registrar of a court in certain circumstances,
- (c) to extend the limitation period for taking proceedings to 12 months for offences which currently have a limitation period of less than 12 months, if a penalty notice is issued within the original limitation period and a person elects to have the matter dealt with by a court,

- (d) to specify additional circumstances when a court fine enforcement order or a penalty notice enforcement order may be withdrawn by the State Debt Recovery Office,
- (e) to remove the power of the Minister to apply for annulment of a penalty notice enforcement order in the case of a question or doubt as to liability and to extend the power of the State Debt Recovery Office to annul a penalty on that ground, but only after seeking a review of the matter by the prosecuting authority,
- (f) to make it clear that a fine defaulter may apply to the State Debt Recovery Office to have a fine written off,
- (g) to restrict action taken against the licences of persons who commit offences while under the age of 18 years to cases involving vehicle or parking offences,
- (h) to require the Roads and Traffic Authority to cease enforcement action if a fine defaulter pays 6 instalments in accordance with a first extension of time to pay,
- (i) to constitute a Hardship Review Board and to provide for its function of reviewing decisions of the State Debt Recovery Office relating to applications for further time to pay fines or to have fines written off,
- (j) to require the State Debt Recovery Office to waive enforcement costs for persons who commit offences while under the age of 18 years,
- (k) to authorise the State Debt Recovery Office to disclose personal information in relation to a fine defaulter to a prosecuting authority or government authority that issued a penalty notice,
- (l) to make other amendments of a procedural, consequential and statute law revision nature,
- (m) to make provision of a savings and transitional nature.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Fines Act 1996* set out in Schedule 1.

Schedule 1 Amendments

Procedural provisions relating to fine enforcement orders

Schedule 1 [2] inserts in the Principal Act provisions setting out the means by which a matter may be referred to the State Debt Recovery Office for the making of a court fine enforcement order.

Schedule 1 [3] makes it clear that the State Debt Recovery Office may, but is not required to, make a court fine enforcement order if an unpaid fine is referred to it by the registrar of a court in the situation where the fine has previously been the subject of an order and enforcement action.

Schedule 1 [4] sets out the matters to be specified in a court fine enforcement order, which were previously contained in regulations.

Schedule 1 [6] omits a provision as a result of procedural matters contained in regulations being inserted in the Principal Act.

Schedule 1 [11] omits, as a consequence of the amendments made by **Schedule 1 [12] and 1 [13]**, the requirement to certify in an application for a penalty notice enforcement order that proceedings may be taken for the offence.

Schedule 1 [12] limits the period within which a penalty notice enforcement order may be made to the applicable limitation period for the offence concerned or the period, as extended by **Schedule 1 [7]**, whichever is applicable.

Schedule 1 [13] makes it clear that an application for a penalty notice enforcement order must certify that the amount payable under the penalty notice has not been paid at the time the application is made and that the relevant limitation period has not expired.

Schedule 1 [14] sets out the matters to be specified in a penalty notice enforcement order, which were previously contained in regulations.

Schedule 1 [16] amends a provision as a result of procedural matters contained in regulations being inserted in the Principal Act.

Schedule 1 [28] inserts a requirement that a notice of a fine enforcement order to a fine defaulter specify the review options available.

Schedule 1 [29] enables a notice of a fine enforcement order to be served on a person at an address provided to the State Debt Recovery Office by police or another government agency, if the State Debt Recovery Office is satisfied that it is the most recent address available for the person.

Withdrawal and annulment of fine enforcement orders

Schedule 1 [5] specifies 2 additional circumstances in which the State Debt Recovery Office may withdraw a court fine enforcement order. They are where the fine has previously been the subject of an order and enforcement action and where the person named in the order is not the same person as the person in respect of whom the fine was imposed.

Schedule 1 [15] specifies 3 additional circumstances in which the State Debt Recovery Office may withdraw a penalty notice enforcement order. They are where the fine has previously been the subject of an order and enforcement action, where the person named in the order is not the same person as the person in respect of whom the fine was imposed and where the offence relates to the owner of a vehicle or vessel and the person concerned was not the owner of the vehicle or vessel at the relevant time.

Schedule 1 [17] removes the right of the Minister to apply for annulment of a penalty notice enforcement order if satisfied that a question or doubt has arisen as to a person's liability for a penalty or other amount. The amendment also removes the 1-year limitation on making an application for an annulment. **Schedule 1 [18] and [19]** make consequential amendments.

Schedule 1 [20] permits the State Debt Recovery Office to annul a penalty notice enforcement order if satisfied that a question or doubt has arisen as to a person's liability for a penalty or other amount.

Schedule 1 [21] enables the State Debt Recovery Office to refund an application fee for a successful application to annul a penalty notice enforcement order.

Schedule 1 [22] inserts proposed section 49A. The proposed section requires the State Debt Recovery Office to refer a matter back to the person or body who issued a penalty notice or on whose behalf a penalty notice was issued (the *prosecuting authority*) before it annuls a penalty notice enforcement order on the ground that a question or doubt has arisen as to liability. The prosecuting authority is to review the matter to determine whether the penalty notice should be withdrawn (which will result in the penalty notice ceasing to have effect and the cessation and reversal of enforcement action). In the event of the prosecuting authority not reviewing the matter or not withdrawing the penalty notice, the State Debt Recovery Office is to proceed to annul the penalty notice enforcement order. The effect of this is that the matter will be dealt with by a Local Court.

Schedule 1 [23] provides that the time for appealing to a Local Court against the refusal of an application for annulment of a penalty notice enforcement order is not later than 28 days after notice of the refusal. This provision was previously contained in regulations. **Schedule 1 [24]** makes a consequential amendment.

Schedule 1 [26] makes the appropriate officer for a penalty notice the prosecutor for the purposes of court proceedings where a penalty notice enforcement order has been annulled.

Matters relating to penalty notices

Schedule 1 [7] extends the limitation period for taking proceedings for offences having a limitation period of less than 12 months, if a penalty notice is issued within that period and a person elects to have the matter dealt with by a court. The extended limitation period is to be 12 months.

Schedule 1 [8] and [9] update the definition of vehicle or vessel offences for which an owner of a vehicle or vessel may, to avoid liability for the offence, provide the name and address of the person in charge of the vehicle or vessel when the offence was committed. The amendments insert matters that were previously specified in regulations.

Fine enforcement action

Schedule 1 [27] inserts an additional matter relating to mitigation of fines in the summary provisions for Part 4 of the Principal Act.

Schedule 1 [30] changes the limitation on the circumstances in which fine enforcement action may be taken by the Roads and Traffic Authority against a person who was under 18 years when the relevant offence was committed. Currently enforcement action may not be taken if the person was not, and never had been, the holder of a driver licence. The amendment will prevent enforcement action from being taken unless the relevant offence was a traffic offence. **Schedule 1 [32]** defines the offences that are traffic offences.

Schedule 1 [31] requires the State Debt Recovery Office to direct the Roads and Traffic Authority to cease enforcement action against a fine defaulter who has been granted a first extension of time to pay a fine and who completes 6 instalments in accordance with the extension of time. If the fine defaulter later defaults, the State Debt Recovery Office may direct the Roads and Traffic Authority to recommence enforcement action. **Schedule 1 [46]** makes a consequential amendment.

Schedule 1 [33] includes actions currently contained in the regulations in the list of actions that the Roads and Traffic Authority is required not to exercise in relation to a fine defaulter against whom it is taking enforcement action.

Schedule 1 [35] provides for regulations relating to community service orders under the *Crimes (Administration of Sentences) Act 1999* to apply to community service orders made by the State Debt Recovery Office under the Principal Act.

Schedule 1 [36] provides for the form of a community service order to be prescribed by regulations.

Schedule 1 [37] inserts proposed sections 80 and 80A. The proposed sections set out procedures for the service of, and notice of, community service orders to fine defaulters and the Commissioner of Corrective Services. The proposed sections combine matters currently contained in the Principal Act, the regulations and provisions of the *Crimes (Sentencing Procedure) Act 1999* that are applied by the Principal Act. **Schedule 1 [34] and [38]** make consequential amendments.

Schedule 1 [40] inserts a provision setting out the authority given by a warrant of commitment.

Schedule 1 [42] includes in the Principal Act a limitation on eligibility for a periodic detention order currently contained in the regulations.

Schedule 1 [43] applies requirements for eligibility for periodic detention orders under the *Crimes (Sentencing Procedure) Act 1999* to periodic detention orders under the Principal Act. **Schedule 1 [39] and [41]** make consequential amendments.

Schedule 1 [44] provides for regulations relating to periodic detention orders under the *Crimes (Administration of Sentences) Act 1999* to apply to periodic detention orders made by the State Debt Recovery Office under the Principal Act.

Schedule 1 [45] inserts proposed sections 89A and 89B. The proposed sections set out procedures for the service of, and notice of, periodic detention orders to fine defaulters, the State Debt Recovery Office and the governors of the relevant periodic detention centres. The proposed sections combine matters currently contained in the Principal Act, the regulations and provisions of the *Crimes (Sentencing Procedure) Act 1999* that are applied by the Principal Act. **Schedule 1 [43]** makes a consequential amendment.

Schedule 1 [50] inserts proposed section 102A which requires the State Debt Recovery Office to waive payment of enforcement costs for a fine enforcement order (other than the fee for the issue of the order) if the relevant offence occurred when the fine defaulter was under the age of 18 years.

Schedule 1 [51] extends the kinds of documents related to fine enforcement action that may be transmitted electronically by the State Debt Recovery Office.

Schedule 1 [52] sets out a statement, currently contained in the regulations, that must be endorsed on a written copy of a document that is transmitted electronically.

Review of fines and fine enforcement action

Schedule 1 [47] makes it clear that a fine defaulter may apply to the State Debt Recovery Office to have a fine written off after a fine enforcement order is made and before a community service order is issued in the matter. The amendment also extends the circumstances in which a fine may be written off by the State Debt Recovery Office to include a situation where it is satisfied that, due to any or all of the financial, medical or personal circumstances of the fine defaulter, the fine defaulter cannot and is not likely to be able to pay, enforcement action has not been or is not likely to be successful and the fine defaulter is not suitable for a community service order. The State Debt Recovery Office is also required to write off an unpaid fine if it is directed to do so by the Hardship Review Board.

Schedule 1 [48] enables the State Debt Recovery Office to recommence enforcement action in relation to a fine that has been written off at any time within 5 years after it is written off if a further fine enforcement order is made against the fine defaulter or it is satisfied that the fine defaulter has sufficient means to pay the fine, enforcement action is likely to be successful or the fine defaulter is suitable for a community service order.

Schedule 1 [49] inserts proposed sections 101A–101C. Proposed section 101A establishes the Hardship Review Board, consisting of the Chief Commissioner of State Revenue, the Secretary of the Treasury and the Director-General of the Attorney General’s Department. Proposed section 101B confers on the Board the function of reviewing, on the application of fine defaulters, decisions by the State Debt Recovery Office to refuse applications for time to pay fines or to have fines written off. Proposed section 101C enables the Board or a member of the Board to disclose personal information relating to fine defaulters obtained in the administration of the proposed sections. **Schedule 1 [1]** makes a consequential amendment.

Other amendments

Schedule 1 [54] inserts proposed section 117A which authorises the State Debt Recovery Office, the Director of that Office or a member of staff of that Office to disclose personal information relating to fine defaulters obtained in the administration of the Principal Act to government agencies involved in the prosecution of offences, but only if the disclosure is reasonably necessary to monitor the status of outstanding fines. Information may also be disclosed to the Hardship Review Board.

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

Schedule 1 [56] inserts savings and transitional provisions.

Fines Amendment Bill 2004

Explanatory note

Statute law revision amendments

Schedule 1 [10], [25] and [53] replace outdated references.



New South Wales

Fines Amendment Bill 2004

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New South Wales

Fines Amendment Bill 2004

No , 2004

A Bill for

An Act to amend the *Fines Act 1996* with respect to the enforcement of penalty notices, fine enforcement order procedures and the review, withdrawal and annulment of fine enforcement orders and fine enforcement action; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fines Amendment Act 2004*.

2 Commencement

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

3 Amendment of Fines Act 1996 No 99

The *Fines Act 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

Hardship Review Board means the Hardship Review Board constituted under section 101A.

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

Insert at the end of section 13:

- (2) A matter may be referred to the State Debt Recovery Office for the making of a court fine enforcement order:
 - (a) by post, or
 - (b) by means of a document exchange, or
 - (c) by facsimile transmission or other electronic transmission.

[3] Section 14 When an order may be made

Insert after section 14 (3):

- (4) The State Debt Recovery Office may, but is not required to, make a court fine enforcement order if a fine to which it is to apply has previously been the subject of a court fine enforcement order in respect of which any enforcement action has been taken.

[4] Section 15 Form of court enforcement order

Omit section 15 (1). Insert instead:

- (1) A court fine enforcement order must specify the following matters:
 - (a) the fine defaulter's name, address and date of birth (if known),
 - (b) a description of the offence in respect of which each fine to which the order applies was imposed,
 - (c) the date on which the fine was imposed,
 - (d) the amount required to be paid, being the amount of the fine that remains to be paid, together with specified enforcement costs.

[5] Section 17 Withdrawal of order

Omit section 17 (1). Insert instead:

- (1) The State Debt Recovery Office may, on application or its own initiative, withdraw a court fine enforcement order if satisfied that:
 - (a) a fine to which it applies has previously been the subject of a court fine enforcement order in respect of which any enforcement action has been taken, or
 - (b) the person named in the court fine enforcement order is not the same person as the person in respect of whom a fine to which it applies was imposed, or
 - (c) the order was otherwise made in error.

[6] Section 18 Regulations relating to orders

Omit the section.

[7] Section 37A

Insert after section 37:

37A Extension of time limit for taking proceedings if person has elected to have penalty notice matter dealt with by court

- (1) This section applies to proceedings for a summary offence that has an applicable limitation period (apart from this section) of less than 12 months if:
 - (a) a penalty notice in relation to the offence has been issued to a person within that applicable limitation period, and
 - (b) the person has duly elected, in accordance with this Part, to have the matter dealt with by a court.
- (2) Proceedings relating to that offence may, despite the applicable limitation period, be commenced not later than 12 months from when the offence was alleged to have been committed.

Note. An election to have a penalty notice matter dealt with by a court must be made in accordance with section 36.

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- (3) Subsection (2) does not affect the operation of section 179 of the *Criminal Procedure Act 1986* in relation to the commencement in any other circumstances of proceedings for an offence. 1
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3
4
- [8] Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty** 5
6
7
- Omit “radar or camera (or any other device prescribed by the regulations)” from paragraph (b) of the definition of *vehicle or vessel offence* in section 38 (4). 8
9
10
- Insert instead “an approved camera detection device or an approved speed measuring device within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*”. 11
12
13
- [9] Section 38 (4), definition of “vehicle or vessel offence”** 14
- Omit paragraph (c) of the definition. Insert instead: 15
- (c) an offence under section 23 of the *Centennial Park and Moore Park Trust Act 1983*, 16
17
 - (d) an offence under section 161 of the *Crown Lands Act 1989*, 18
19
 - (e) an offence under section 38C of the *Forestry Act 1916*, 20
 - (f) an offence under section 32A of the *Impounding Act 1993*, 21
22
 - (g) an offence under section 651 of the *Local Government Act 1993*, 23
24
 - (h) an offence under section 30C of the *Maritime Services Act 1935*, 25
26
 - (i) an offence under section 159 of the *National Parks and Wildlife Act 1974*, 27
28
 - (j) an offence under section 29 of the *Parramatta Park Trust Act 2001*, 29
30
 - (k) an offence under section 43 of the *Road Transport (General) Act 1999*, 31
32
 - (l) an offence under section 244 of the *Roads Act 1993*, 33
 - (m) an offence under section 22A of the *Royal Botanic Gardens and Domain Trust Act 1980*, 34
35
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	(n)	an offence under section 20A of the <i>State Sports Centre Trust Act 1984</i> ,	1
			2
	(o)	an offence under section 78 of the <i>Sydney Olympic Park Authority Act 2001</i> ,	3
			4
	(p)	an offence under section 116 of the <i>Transport Administration Act 1988</i> ,	5
			6
	(q)	an offence relating to a vehicle or vessel that is of a kind prescribed by the regulations.	7
			8
[10]		Section 42 When a penalty notice enforcement order may be made	9
		Omit section 42 (1) (f). Insert instead:	10
	(f)	a court attendance notice in relation to the offence has not been issued, and	11
			12
[11]		Section 42 (1) (g)	13
		Omit the paragraph.	14
[12]		Section 42 (1A)	15
		Insert after section 42 (1):	16
	(1A)	A penalty notice enforcement order may not be made later than:	17
			18
	(a)	if the applicable limitation period in relation to the offence is less than 12 months—12 months from when the offence was committed or is alleged to have been committed, or	19
			20
			21
			22
	(b)	if the applicable limitation period in relation to the offence is 12 months or greater—the expiry of that limitation period.	23
			24
			25
[13]		Section 42 (2) and (2A)	26
		Omit section 42 (2). Insert instead:	27
	(2)	An application for a penalty notice enforcement order must certify:	28
			29
	(a)	that the matters specified in subsection (1) (other than subsection (1) (d)) are satisfied, and	30
			31
	(b)	that the amount payable under the penalty notice has not been paid, and	32
			33

	(c) that the period for making the order (as referred to in subsection (1A)) has not expired.	1 2
	(2A) The State Debt Recovery Office may rely on the certificate for the purpose of making the order.	3 4
[14]	Section 43 Form of penalty notice enforcement order	5
	Omit section 43 (1). Insert instead:	6
	(1) A penalty notice enforcement order must specify the following matters:	7 8
	(a) the fine defaulter's name, address and date of birth (if known),	9 10
	(b) a description of the offence in respect of which each fine to which the order applies was imposed,	11 12
	(c) the date on which the fine was imposed,	13
	(d) the amount required to be paid, being the amount that remains to be paid under the penalty notice, together with specified enforcement costs.	14 15 16
[15]	Section 46 Withdrawal of order	17
	Omit section 46 (1). Insert instead:	18
	(1) The State Debt Recovery Office may, on application or its own initiative, withdraw a penalty notice enforcement order if satisfied that:	19 20 21
	(a) a fine to which it applies has previously been the subject of a penalty notice enforcement order in respect of which any enforcement action has been taken, or	22 23 24
	(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, or	25 26 27
	(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, or	28 29 30 31
	(d) the order was otherwise made in error.	32
[16]	Section 47 Regulations relating to orders	33
	Omit section 47 (a) and (b).	34

[17] Section 48 Applications for annulment of orders	1
Omit section 48 (2) and (4).	2
[18] Section 49 Determination of applications by State Debt Recovery Office	3
Omit section 49 (1).	4
[19] Section 49 (2)	5
Omit “made by a person other than the Minister”.	6
[20] Section 49 (2) (b1)	7
Insert after section 49 (2) (b):	8
(b1) a question or doubt has arisen as to the person’s liability for the penalty or other amount concerned, or	9
[21] Section 49 (7)	10
Insert after section 49 (6):	11
(7) The State Debt Recovery Office may, but is not required to, refund any application fee for an application for an annulment that is successful.	12
[22] Section 49A	13
Insert after section 49:	14
49A Review of penalty notice where doubt as to liability	15
(1) Before the State Debt Recovery Office annuls a penalty notice enforcement order made against a person on the ground that a question or doubt has arisen as to the person’s liability for the penalty or other amount concerned, it must refer the matter to the appropriate officer who applied for the order or the person or body on behalf of whom the penalty notice was issued (the <i>prosecuting authority</i>).	16
(2) The prosecuting authority must review the matter to determine whether a penalty notice to which the penalty notice enforcement order applies should be withdrawn.	17
(3) A review is to be dealt with in the absence of the parties, unless the prosecuting authority otherwise determines.	18

	(4) The prosecuting authority must notify the applicant for the annulment and the State Debt Recovery Office of its determination on the review of the penalty notice.	1 2 3
	(5) If the prosecuting authority determines that a penalty notice should be withdrawn (in whole or in part), the State Debt Recovery Office must withdraw the penalty notice enforcement order (in whole or in part) under section 46.	4 5 6 7
	(6) The State Debt Recovery Office must, if a penalty notice is not withdrawn on review or there is no decision on a review within 42 days after referral for review, grant the application for annulment and annul the penalty notice enforcement order under section 49.	8 9 10 11 12
[23]	Section 50 Appeal against refusal of application by State Debt Recovery Office	13 14
	Insert “, not later than 28 days after notice is given of the refusal,” after “may” in section 50 (1).	15 16
[24]	Section 50 (5)	17
	Omit “limiting the time for making applications and”.	18
[25]	Section 51 Proceedings for alleged offence if fine enforcement order annulled	19 20
	Omit “an information” from section 51 (4) (a).	21
	Insert instead “a court attendance notice”.	22
[26]	Section 51 (4)	23
	Omit “The person who made the application for the order, or an appropriate officer nominated by that person, is taken to be the informant.”.	24 25 26
	Insert instead “The appropriate officer for the penalty notice is taken to be the prosecutor for the offence.”.	27 28

[27] Section 58 Summary of enforcement procedure	1
Insert after section 58 (1) (f):	2
(g) Fine mitigation	3
A fine defaulter may seek further time to pay and the	4
State Debt Recovery Office may write off unpaid fines.	5
Applications for review may be made to the Hardship	6
Review Board (see Division 8).	7
[28] Section 60 What notice must say	8
Insert at the end of section 60 (1) (d):	9
, and	10
(e) review options are available relating to the fine	11
enforcement order, including withdrawal, annulment,	12
time to pay and the writing off of fines.	13
[29] Section 61 Service of notice	14
Insert at the end of section 61 (3) (c):	15
, or	16
(d) the address provided for the person under section 117,	17
if the State Debt Recovery Office is satisfied that it is	18
the most recent address available for the person.	19
[30] Section 65 When enforcement action taken under this Division	20
Omit section 65 (3) (b). Insert instead:	21
(b) the offence is not a traffic offence.	22
[31] Section 65 (4A) and (4B)	23
Insert after section 65 (4):	24
(4A) If the Roads and Traffic Authority has taken fine enforcement	25
action against a fine defaulter who is granted a first extension	26
of time under this Act for payment of the fine, and the fine	27
defaulter pays 6 instalments in accordance with the extension	28
of time:	29
(a) the State Debt Recovery Office must direct the Roads	30
and Traffic Authority to cease the enforcement action,	31
and	32

	(b) the Roads and Traffic Authority is to cease the enforcement action.	1 2
	(4B) The State Debt Recovery Office may direct the Roads and Traffic Authority to recommence enforcement action in respect of a fine defaulter referred to in subsection (4A) if the fine defaulter fails to pay any further instalment in accordance with the extension of time to pay.	3 4 5 6 7
[32]	Section 65 (6)	8
	Insert at the end of section 65:	9
	(6) In this section:	10
	<i>traffic offence</i> means:	11
	(a) an offence arising under a provision of the following Acts in respect of the use, standing or parking of a motor vehicle:	12 13 14
	(i) the road transport legislation within the meaning of the <i>Road Transport (General) Act 1999</i> ,	15 16
	(ii) the <i>Roads Act 1993</i> ,	17
	(iii) the <i>Motor Vehicles (Third Party Insurance) Act 1942</i> ,	18 19
	(iv) the <i>Recreation Vehicles Act 1983</i> , or	20
	(b) an offence arising under a provision of any other law in respect of the standing or parking of a motor vehicle.	21 22
[33]	Section 68 Suspension of dealings with Roads and Traffic Authority	23 24
	Omit section 68 (2) (f). Insert instead:	25
	(f) the issue of an unregistered vehicle permit to the fine defaulter,	26 27
	(g) the registration of a motor vehicle in the name of the fine defaulter, or the renewal of registration of a motor vehicle in the name of the fine defaulter, under the <i>Recreation Vehicles Act 1983</i> ,	28 29 30 31
	(h) the issue of trader's plates to the fine defaulter,	32
	(i) the processing of a number plate exchange for the fine defaulter,	33 34
	(j) the reservation of a particular number plate for the fine defaulter,	35 36

	(k)	the ordering of a particular number plate, or a particular design of number plate, for the fine defaulter,	1 2
	(l)	the testing of the fine defaulter to ascertain the fine defaulter's eligibility for a driver's licence,	3 4
	(m)	the booking of a driving test for the fine defaulter,	5
	(n)	the exercise of any other function of the Authority requested by the fine defaulter, being a function of a kind prescribed by the regulations for the purposes of this section.	6 7 8 9
[34]	Section 79 Making of community service order against fine defaulter		10 11
		Insert "(other than sections 92 and 93)" after "Part 7" in section 79 (6) (a).	12
[35]	Section 79 (6) (b)		13
		Insert "and any regulations made for the purposes of that Part" after "1999".	14 15
[36]	Section 79 (8)		16
		Insert after section 79 (7):	17
	(8)	A community service order is to be in the form prescribed by the regulations.	18 19
[37]	Sections 80 and 80A		20
		Omit section 80. Insert instead:	21
	80 Service and notice of order		22
	(1)	As soon as practicable after making a community service order under this Division, the State Debt Recovery Office must cause a copy of the order and written notice of the order to be served on the fine defaulter.	23 24 25 26
	(2)	The notice must be in the form prescribed by the regulations and must include the following information:	27 28
	(a)	the place at which, or person to whom, the fine defaulter must present himself or herself, in person, for the purpose of enabling the administration of the order to be commenced,	29 30 31 32

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| <p>(b) the period within which the fine defaulter must present himself or herself.</p> <p>(3) Three copies of the notice must be served on the fine defaulter.</p> <p>(4) The fine defaulter must sign 3 copies of the notice in the presence of the person by whom it was served. Of the copies:</p> <p style="padding-left: 20px;">(a) one is to be kept by the fine defaulter, and</p> <p style="padding-left: 20px;">(b) one is to be served by the person who served the notice on the fine defaulter on the Commissioner of Corrective Services or the Director-General of the Department of Juvenile Justice, whichever is appropriate, and is to be kept by the Commissioner or Director-General, as appropriate, and</p> <p style="padding-left: 20px;">(c) one is to be served by that person on, and kept by, the State Debt Recovery Office.</p> <p>(5) A community service order is not invalidated by a failure to comply with this section or section 80A.</p> <p>80A Provisions relating to service of orders and notice</p> <p>(1) The community service order and notice may be served on the fine defaulter only in accordance with the directions of the State Debt Recovery Office.</p> <p>(2) The order and 3 copies of the notice are to be served personally on the fine defaulter by the Sheriff or the Sheriff's officers or by a court bailiff authorised by the Sheriff.</p> <p>(3) The person who serves a community service order under this Division is required to explain the order to the fine defaulter on whom it is served.</p> <p>(4) The explanation is to be given in a language likely to be understood by the fine defaulter and is to include information as to the following matters:</p> <p style="padding-left: 20px;">(a) the requirements to be complied with by the fine defaulter under the order,</p> <p style="padding-left: 20px;">(b) the consequences that may follow if the fine defaulter fails to comply with those requirements,</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> |
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	(c) the fact that the order may be satisfied by payment of such part of the fine as has not been satisfied by the performance of community service work under the order.	1 2 3 4
[38]	Section 85 Provisions relating to orders	5
	Omit section 85 (2) and (3).	6
[39]	Section 87 Imprisonment following breach of community service order	7 8
	Omit "Division 5" from section 87 (1). Insert instead "section 86 (1)".	9
[40]	Section 87 (2A)	10
	Insert after section 87 (2):	11
	(2A) A warrant:	12
	(a) must be in the prescribed form, and	13
	(b) is sufficient authority for any police officer to convey the fine defaulter to the correctional centre identified in the warrant, and	14 15 16
	(c) is sufficient authority for the governor of the correctional centre to keep the fine defaulter in his or her custody for the period of imprisonment calculated in accordance with this Division.	17 18 19 20
[41]	Section 89 Periodic detention	21
	Omit section 89 (3) (b).	22
[42]	Section 89 (3) (e) and (f)	23
	Omit section 89 (3) (e). Insert instead:	24
	(e) if an earlier order for periodic detention (whether under this Act or the <i>Crimes (Sentencing Procedure) Act 1999</i>) has been revoked because the fine defaulter has failed to serve a sentence of imprisonment in accordance with the requirements of the order, or	25 26 27 28 29
	(f) in any other circumstances prescribed by the regulations.	30 31

[43] Section 89 (8) (a)	1
Omit "Divisions 1 and 4 of Part 5".	2
Insert instead "Division 1 of Part 5, section 66 and Divisions 3 and 4 (other than sections 71 and 72) of Part 5".	3 4
[44] Section 89 (8) (b)	5
Insert ", and regulations made under those Parts," after "1999".	6
[45] Sections 89A and 89B	7
Insert after section 89:	8
89A Service and notice of order for periodic detention	9
(1) As soon as practicable after making an order under this Division (a <i>periodic detention order</i>), the Commissioner of Corrective Services must cause a copy of the order and written notice of the order to be served on the fine defaulter, the State Debt Recovery Office and the governor of the periodic detention centre to which the fine defaulter is committed to serve the sentence.	10 11 12 13 14 15 16
(2) The notice must be in the form prescribed by the regulations and must include the following information:	17 18
(a) the periodic detention centre to which the fine defaulter must report,	19 20
(b) the date on which, and the time at which, the fine defaulter is first to report to the periodic detention centre, and	21 22 23
(c) the day of the week on which, and the time at which, the fine defaulter is subsequently to report to the periodic detention centre during the term of the fine defaulter's sentence of imprisonment.	24 25 26 27
(3) Three copies of the notice must be served on the fine defaulter.	28 29
(4) The fine defaulter must sign 3 copies of the notice in the presence of the person by whom it was served. Of the copies:	30 31
(a) one is to be kept by the fine defaulter, and	32
(b) one is to be served by the person who served the notice on the fine defaulter on the governor of the periodic	33 34

	detention centre to which the fine defaulter is committed and is to be kept by that governor, and	1 2
	(c) one is to be served by that person on, and kept by, the Commissioner of Corrective Services.	3 4
	(5) An order under section 89 is not invalidated by a failure to comply with this section or section 89B.	5 6
89B	Provisions relating to service	7
	(1) The periodic detention order and notice may be served on the fine defaulter only in accordance with the directions of the Commissioner of Corrective Services.	8 9 10
	(2) The order and 3 copies of the notice are to be served personally on the fine defaulter by the Sheriff or the Sheriff's officers or by a court bailiff authorised by the Sheriff.	11 12 13
	(3) The person who serves a periodic detention order under this Division is required to explain the order to the fine defaulter on whom it is served.	14 15 16
	(4) The explanation is to be given in a language likely to be understood by the fine defaulter and is to include information as to the following matters:	17 18 19
	(a) the requirements to be complied with by the fine defaulter under the order,	20 21
	(b) the consequences that may follow if the fine defaulter fails to comply with those requirements,	22 23
	(c) the fact that the order may be satisfied by payment of such part of the fine as has not been satisfied by the period of imprisonment served under the order.	24 25 26
[46]	Section 100 Time to pay	27
	Omit the note to section 100 (5).	28
[47]	Section 101 Unpaid fines may be written off	29
	Omit section 101 (1). Insert instead:	30
	(1) After a fine enforcement order is made and before a community service order is issued in the matter, an application to have the fine written off may be made to the State Debt Recovery Office by the fine defaulter.	31 32 33 34

(1A)	The State Debt Recovery Office may, on the application of a fine defaulter or at its own discretion, write off an unpaid fine:	1
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(a)	if it is satisfied that, due to any or all of the financial, medical or personal circumstances of the fine defaulter:	3
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(i)	the fine defaulter does not have sufficient means to pay the fine and is not likely to have sufficient means to pay the fine, and	5
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(ii)	enforcement action under Division 4 has not been or is unlikely to be successful in satisfying the fine, and	8
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(iii)	the fine defaulter is not suitable to be subject to a community service order under Division 5, or	11
		12
(b)	in accordance with guidelines issued under section 120.	13
(1B)	The State Debt Recovery Office must write off an unpaid fine if it is directed to do so by the Hardship Review Board.	14
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[48]	Section 101 (4)	16
	Insert after section 101 (3):	17
(4)	Despite subsection (3), an unpaid fine that is written off under this section may be reinstated and enforcement action may be recommenced by the State Debt Recovery Office in respect of the fine defaulter at any time within 5 years after it is written off if:	18
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(a)	a further fine enforcement order is made against the fine defaulter, or	23
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(b)	the State Debt Recovery Office is satisfied that the fine defaulter has sufficient means to pay the fine, that enforcement action is likely to be successful in satisfying the fine or that the fine defaulter is suitable to be subject to a community service order.	25
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[49]	Sections 101A–101C	30
	Insert after section 101:	31
101A	Hardship Review Board	32
(1)	There is to be a Hardship Review Board consisting of:	33
(a)	the Chief Commissioner of State Revenue, and	34
(b)	the Secretary of the Treasury, and	35

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| <p>(c) the Director-General of the Attorney General's Department.</p> <p>(2) A member of the Hardship Review Board may appoint a person to act in the place of the member at meetings of the Board.</p> <p>(3) An acting member, while so acting, has the functions of, and is taken to be, a member of the Hardship Review Board.</p> <p>101B Reviews by Hardship Review Board</p> <p>(1) The Hardship Review Board may, on the application of a fine defaulter, review a decision by the State Debt Recovery Office to refuse an application by a fine defaulter for time to pay a fine or to have a fine written off.</p> <p>(2) A fine defaulter may not make more than one application under this section in relation to the same fine.</p> <p>(3) The Hardship Review Board may determine the procedure for a review and may conduct a review in the absence of the parties.</p> <p>(4) The State Debt Recovery Office may suspend enforcement action against a fine defaulter who makes an application under this section but is not required to do so unless given a direction under this section.</p> <p>(5) The Hardship Review Board may direct that enforcement action under this Part against a fine defaulter be suspended pending its review, if it thinks it appropriate in the circumstances.</p> <p>(6) On a review, the Hardship Review Board may direct the State Debt Recovery Office to allow a fine defaulter further time to pay a fine under section 100, or to write off an unpaid fine under section 101.</p> <p>(7) The Hardship Review Board may give a direction under this section if it thinks it is appropriate to do so having regard to the circumstances of the fine defaulter and the matters set out in section 100 or section 101 (1A) (a) and the guidelines issued under section 120, as the case requires.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> |
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101C Disclosure of information by Hardship Review Board

The Hardship Review Board, a member of the Board, or a person otherwise engaged in the administration of this section or section 101A or 101B, may disclose to the Director or a member of staff of the State Debt Recovery Office information obtained in the administration of this section or section 101A or 101B.

[50] Section 102A

Insert after section 102:

102A Liability of minors for enforcement costs

- (1) The State Debt Recovery Office must waive the payment by a fine defaulter of any enforcement costs in respect of a fine enforcement order, other than the fee for the issue of a fine enforcement order, if the offence:
 - (a) in respect of which the fine concerned was imposed on the fine defaulter by a court, or
 - (b) in respect of which the penalty notice from which the fine concerned arises was served on the defendant,
 occurred while the fine defaulter was under the age of 18 years.
- (2) Subsection (1) does not apply in respect of a fine enforcement order if one or more subsequent fine enforcement orders are made against the fine defaulter in respect of an offence that occurred when the fine defaulter was of or above the age of 18 years.

[51] Section 103 Electronic transmission of documents

Omit section 103 (1) (b). Insert instead:

- (b) a property seizure order or warrant of apprehension directed to the Sheriff under Division 4,
- (b1) a garnishee order or examination summons under Division 4, or a summons requiring a garnishee under such a garnishee order to show cause, given to the Sheriff for service,

[52] Section 103 (2)

Omit “in the manner required by the regulations.”. Insert instead:

with the following words:

This document has been transmitted electronically by the
State Debt Recovery Office in accordance with section 103 of
the *Fines Act 1996*.

[53] Section 113 Establishment of State Debt Recovery Office

Omit “Attorney General’s Department” from section 113 (3).

Insert instead “Treasury”.

[54] Section 117A

Insert after section 117:

117A Disclosure of information by State Debt Recovery Office

- (1) The State Debt Recovery Office, the Director of the Office or a member of the staff of the Office may disclose personal information obtained in relation to a fine defaulter in the administration of this Act to:
 - (a) a government agency that is a prosecuting authority in relation to the offence concerned or on whose behalf the offence was prosecuted, or
 - (b) a government agency on whose behalf the penalty notice for the offence concerned was issued, or
 - (c) the Hardship Review Board.
- (2) Information may be disclosed to an agency referred to in subsection (1) (a) or (b) only if the disclosure is reasonably necessary to monitor the status of outstanding fines.

[55] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Fines Amendment Act 2004

[56] Schedule 3, Part 4	1
Insert after Part 3 of the Schedule:	2
Part 4 Provisions consequent on enactment of Fines Amendment Act 2004	3
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13 Definition	5
In this Part:	6
<i>amending Act</i> means the <i>Fines Amendment Act 2004</i> .	7
14 Application of section 37A	8
Section 37A, as inserted by the amending Act, does not apply in relation to an offence that was committed or is alleged to have been committed before the commencement of that section.	9 10 11 12
15 Application of amendment to section 42	13
Section 42, as in force before its amendment by the amending Act, continues to apply to a penalty notice enforcement order that is proposed to be made in relation to an offence that was committed or is alleged to have been committed before the commencement of the amendment as if that section had not been so amended.	14 15 16 17 18 19
16 Application of amending Act to fine enforcement orders	20
(1) Except as provided by clause 15, this Act, as amended by the amending Act, applies to enforcement orders made after the commencement of this clause, whether or not the offence concerned occurred before, on or after that commencement.	21 22 23 24
(2) Except as provided by subclause (3) and clause 17, the amendments made by the amending Act to this Act do not apply to or in respect of fine enforcement orders made before the commencement of this clause.	25 26 27 28
(3) This Act, as amended by the amending Act, applies to applications made after the commencement of this clause for the withdrawal or annulment of fine enforcement orders, whether or not the enforcement orders were made before, on or after that commencement.	29 30 31 32 33

17 Reviews by Hardship Review Board

Section 101B, as inserted by the amending Act, extends to decisions of the State Debt Recovery Office made before the commencement of this clause to refuse an application by a fine defaulter for time to pay or to have a fine written off.

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