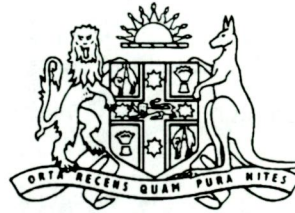


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New South Wales

Property, Stock and Business Agents Amendment (Penalty Notices) Bill 1998

Explanatory note

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

This Bill is cognate with the *Fair Trading Amendment Bill 1998*.

Overview of Bill

The object of this Bill is to amend the *Property, Stock and Business Agents Act 1941* to authorise the issuing of penalty notices for certain offences against the Act or the regulations. The Bill also makes a consequential amendment to the *Fines Act 1996*.

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 the date of assent.

Clause 3 is a formal provision giving effect to the amendment to the *Property, Stock and Business Agents Act 1941* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendment to the *Fines Act 1996* set out in Schedule 2.

Schedule 1 amends the *Property, Stock and Business Agents Act 1941* by inserting proposed section 86C which authorises the issuing of penalty notices for offences against the Act or the regulations that are identified as penalty notice offences in the regulations.

Schedule 2 consequentially amends the *Fines Act 1996* to allow penalty notices that are issued under the provision proposed to be inserted by Schedule 1 to the proposed Act, to be issued and enforced using the procedures set out in the *Fines Act 1996*.

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New South Wales

Property, Stock and Business Agents Amendment (Penalty Notices) Bill 1998

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Property, Stock and Business Agents Act 1941 No 28	2
4 Consequential amendment of Fines Act 1996 No 99	2

Schedules

1 Amendment of Property, Stock and Business Agents Act 1941	3
2 Consequential amendment of Fines Act 1996	5



New South Wales

Property, Stock and Business Agents Amendment (Penalty Notices) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Property, Stock and Business Agents Act 1941* in relation to the issuing of penalty notices for certain offences; and to make a consequential amendment to the *Fines Act 1996*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Property, Stock and Business Agents Amendment (Penalty Notices) Act 1998*.

2 Commencement

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This Act commences on the date of assent.

**3 Amendment of Property, Stock and Business Agents Act 1941
No 28**

The *Property, Stock and Business Agents Act 1941* is amended as set out in Schedule 1.

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4 Consequential amendment of Fines Act 1996 No 99

The *Fines Act 1996* is amended as set out in Schedule 2.

Schedule 1 Amendment of Property, Stock and Business Agents Act 1941

(Section 3)

Section 86C

Insert after section 86B:

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86C Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if:
 - (a) it appears to the officer that the person has committed an offence against this Act or the regulations, and 10
 - (b) the regulations prescribe the offence as being one for which a penalty notice may be issued.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section. 15
- (3) A penalty notice may be served personally or by post. 20
- (4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence. 25
- (6) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and 30

- (b) prescribe the amount of penalty for an offence if dealt with under this section, and
 - (c) prescribe different amounts of penalty for different offences or classes of offences.
- (7) The amount of penalty prescribed under this section for an offence may not exceed the maximum amount of penalty that could be imposed for the offence by a court. 5
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences. 10
- (9) In this section, *authorised officer* means the Director-General, or a person authorised in writing by the Director-General as an authorised officer for the purposes of this section. 15

Property, Stock and Business Agents Amendment (Penalty Notices) Bill 1998

Consequential amendment of Fines Act 1996

Schedule 2

Schedule 2 Consequential amendment of Fines Act 1996

(Section 4)

Schedule 1 Statutory provisions under which penalty notices issued

5

Insert in alphabetical order:

Property, Stock and Business Agents Act 1941,
section 86C