



New South Wales

Fines Amendment Bill 2012

Explanatory note

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

Overview of Bill

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

- (a) to reframe time limits applying to elections to have a penalty notice matter dealt with by a court so that they are directly referable to whether or not a penalty reminder notice has been issued,
- (b) to allow a person to elect to have a penalty notice matter dealt with by a court at any time during an internal review of the decision to issue the penalty notice,
- (c) to extend the time within which a person may elect to have a penalty notice matter dealt with by a court following an internal review that confirms the decision to issue the penalty notice,
- (d) to provide for the time within which a person who is not issued a penalty reminder notice may apply for an internal review of the decision to issue the penalty notice,
- (e) to extend the power of the State Debt Recovery Office to obtain information about fine defaulters (including from credit reporting agencies),

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- (f) to provide that amounts paid under penalty notices or penalty reminder notices that are to be refunded under the Act are to be refunded to the persons by whom they were paid (rather than to the alleged offender),
 - (g) to allow garnishee orders to be served electronically on corporations,
 - (h) to make minor, consequential or ancillary amendments.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Fines Act 1996 No 99

Time for electing to go to court

Schedule 1 [2] and [8] reframe time limits that apply to elections to have a penalty notice matter dealt with by a court so that those limits are directly referable to whether or not a penalty reminder notice has been issued.

Currently, a person who fully pays the penalty amount by the due date specified in the penalty notice or who is issued a penalty reminder notice, having fully or partly paid the penalty amount, may elect to go to court no later than 90 days after the penalty notice was issued and a person who is issued a penalty reminder notice, having paid none of the penalty amount, may elect to go to court no later than the due date specified in the reminder notice.

Generally, the effect of the proposed amendments is that a person who fully pays the penalty amount by the due date specified in the penalty notice may elect to go to court no later than 90 days after the penalty notice was issued, and a person who receives a penalty reminder notice (as in the case of a person who has not, or has only partly, paid the penalty amount by that due date) may make such an election no later than the due date specified in the reminder notice. However, regardless of these time limits:

- (a) a person who seeks an internal review of a decision to issue a penalty notice may make such an election at any time during the review, and
- (b) if a person who has fully paid the penalty amount by the due date specified in the penalty notice applies for an internal review which confirms the decision to issue the penalty notice, the person may make such an election no later than 28 days after being notified of the outcome of the review.

Schedule 1 [1], [5], [7] and [9]–[12] make consequential and ancillary amendments.

Schedule 1 [6] omits a provision so as to extend the time limit for court election by a person who is issued with a replacement penalty reminder notice following an internal review that confirms the decision to issue the penalty notice, from the due

date specified in the replaced penalty reminder notice to that in the replacement penalty reminder notice.

Time for applying for internal review

Schedule 1 [4] restates the time limit that applies to applications by persons who have been issued with a penalty reminder notice, for an internal review of the decision to issue the penalty notice, and expressly provides for the time limit for the making of such applications by persons who are not issued a penalty reminder notice (having fully paid the penalty amount by the due date specified in the penalty notice).

Schedule 1 [5] makes a consequential amendment.

Repayment of amounts under penalty notices

Schedule 1 [3] makes various references to the person to whom an amount paid under a penalty notice or penalty reminder notice is to be repaid (for example, if the notice is withdrawn) consistent with other such references in the Act, so that it is always to be repaid to the person by whom it was paid (rather than to the alleged offender).

Access to information by SDRO

Schedule 1 [16]–[18] extend the power of the State Debt Recovery Office (the *SDRO*) to obtain information about fine defaulters. **Schedule 1 [16]** and **[17]** require police officers and government agencies and utilities to provide the SDRO, on request, with available information about a fine defaulter's property (expressed as "assets" in the current provision), date of birth or driver licence number for the purposes of fine enforcement, and about a fine defaulter's bank account number or employer for the purposes of making a garnishee order against the person.

Schedule 1 [18] authorises credit reporting agencies (within the meaning of the *Privacy Act 1988* of the Commonwealth) to disclose to the SDRO, on request, relevant information about a fine defaulter contained in the person's credit information file (within the meaning of that Act), for the purposes of fine enforcement. *Relevant information* is any information that is reasonably necessary in order to identify the individual to whom the file relates. The following kinds of information have been determined under that Act to be reasonably necessary to be included in a person's credit information file to identify the person:

- (a) full name (including any known aliases), sex and date of birth,
- (b) a maximum of 3 addresses consisting of a current or last known address and 2 immediately previous addresses,
- (c) name of current or last known employer,
- (d) driver licence number.

Schedule 1 [13] updates a cross-reference.

Service of garnishee orders

Schedule 1 [14] enables a garnishee order made under the Act to be served electronically on a corporation.

Statute law revision and savings and transitional provisions

Schedule 1 [15] updates a reference to a Division of the Government Service to reflect administrative changes.

Schedule 1 [19] enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [20] enacts transitional provisions concerning the application of various amendments made by the proposed Act.