

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Greg Pearce.

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.14 a.m.]: I move:

That this bill be now read a second time.

In the process of enforcing fines the State Debt Recovery Office [SDRO] is responsible for recovering significant amounts of outstanding fines debt on behalf of the State of New South Wales. The Fines Amendment Bill 2012 contains important provisions to ensure that fines imposed for breaches of the law are enforced, and that debts due to the State of New South Wales are recovered. The major measure introduced by the bill will improve the ability of the State Debt Recovery Office to successfully take fine enforcement action by extending the authority of the State Debt Recovery Office to obtain information identifying fine defaulters.

Successful enforcement action requires accurate identification of the fine defaulter, including the correct name and address. In addition, some enforcement action such as garnishee orders and property seizure orders require details of the person's employer, bank accounts and property. The most efficient method of obtaining information is through data matching with other government agencies, both to verify the accuracy of information held by State Debt Recovery Office and to obtain additional information necessary to locate offenders and take enforcement action.

The State Debt Recovery Office currently has access to information from other government agencies for the purposes of locating fine defaulters and undertaking enforcement action, but the information which can be requested is limited to the criminal record, address and assets of a fine defaulter. The bill clarifies the power of the State Debt Recovery Office to obtain information about fine defaulters from other government agencies. The additional information consists of the defaulter's date of birth, drivers licence number, bank account numbers and employer. Details of a person's bank accounts and employer will only be able to be used for the purpose of making a garnishee order in relation to a fine defaulter's bank account or wages.

The bill also provides limited access to information from other sources. Private sector debt collection bodies have access to data-matching services including data collected by credit reporting agencies for credit reference purposes. Access to that information would greatly assist in locating fine defaulters and improving debt collection rates, as it is often more current and more accurate than records held by government agencies. Access to credit reference information is governed by the Commonwealth Privacy Act 1988, which relevantly states that a credit reporting agency must not disclose personal information to a person, body or agency unless the disclosure is required or authorised by law. The bill therefore authorises credit reporting agencies to disclose certain information to the State Debt Recovery Office.

This is limited to information in a person's credit information file that is reasonably necessary in order to identify the individual to whom the file relates, as specified under the

Commonwealth Act. This information currently includes the person's full name, including any known aliases, sex and date of birth, a maximum of three addresses consisting of a current or last known address and two immediately previous addresses, the name of the current or last known employer and the drivers licence number. The provisions in the bill dealing with access to information have been drafted in consultation with the Office of the Privacy Commissioner and the Department of Attorney General and Justice.

A further measure in the bill to improve enforcement processes is to authorise electronic service of garnishee orders on corporations. The State Debt Recovery Office is authorised to make a garnishee order requiring debts payable to a fine defaulter by the person named in the order to be paid to the State Debt Recovery Office in satisfaction of the fine debt. This is most commonly used to obtain payment from a fine defaulter's bank accounts.

The State Debt Recovery Office often makes multiple orders for a financial institution to attach amounts held in customer accounts of a number of fine defaulters. These bulk orders are served on banks by post. Major financial institutions have indicated that providing this information by electronic means is a more efficient method of attaching fine defaulters' accounts for recovery of outstanding fines. The bill therefore authorises electronic service, but only when the corporation agrees to accept service in that manner. This more streamlined process will improve the recovery rate for unpaid fines by making it easier and cheaper for financial institutions to comply with the order.

Finally, the bill clarifies two procedural matters in the Fines Act. The first relates to the options available to penalty notice recipients. A person who has received a penalty notice may apply to the issuing agency or to the State Debt Recovery Office, on specified grounds, for a review of the decision to issue a penalty notice. A penalty notice recipient also may elect to have the matter heard by a court. It was not intended that an application for review would be an exclusive alternative to court election. The bill therefore clarifies the time limits applying to reviews and court elections, including extending the time in which a person can elect to have a penalty notice matter heard in court to the due date for payment in the penalty reminder notice that is issued following a review of the penalty notice. That will ensure that a person retains the right to court-elect for a specified period, following receipt of a penalty notice or penalty reminder notice.

The second procedural matter relates to repayments. Amounts paid under penalty notices are required to be repaid in some circumstances, including when the penalty notice is withdrawn following a review. However, payments are often paid from the account of a person other than the person named on the penalty notice, and it is standard practice for amounts paid by credit card or cheque to be refunded to the account holder. The bill adopts consistent wording for all refund provisions in the Fines Act to authorise repayment to the person by whom it was paid.

The amendments introduced by the Fines Amendment Bill 2012 will improve administration and enforcement of fines. The provisions strike an appropriate balance between, on one hand, the requirement for the State Debt Recovery Office to recover outstanding debt and ensure offenders meet their obligations under the law and, on the other hand, maintaining the fairness of enforcement processes including the right to be heard in court and the right to privacy. I commend the bill to the House.