

Western Australia

**Fines, Penalties and Infringement Notices
Enforcement Amendment Act 2012**

As at 29 Nov 2012

No. 48 of 2012

Extract from www.slp.wa.gov.au, see that website for further information

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Fines, Penalties and Infringement Notices Enforcement Act 1994* amended

3.	Act amended	3
4.	Section 3 amended	3
5.	Section 5 amended	4
6.	Section 7A amended	4
7.	Section 10 amended	4
8.	Section 10A amended	5
9.	Section 11 amended	5
10.	Section 17 amended	7
11.	Section 18 amended	7
12.	Section 19 amended	9
13.	Section 20 amended	10
14.	Section 21A inserted	10
	21A. Enforcement warrant	10
15.	Section 21 amended	11
16.	Section 22 amended	12
17.	Section 27A amended	13
18.	Section 32 replaced	14

Contents

32.	Offender must pay fine or get time to pay order	14	
19.	Section 39 amended		14
20.	Section 42 replaced		15
42.	Notice of intention to enforce	15	
21.	Section 43 amended		16
22.	Section 44 amended		17
23.	Section 45 amended		17
24.	Section 48A inserted		18
48A.	Order to attend for work and development: cancellation	18	
25.	Section 53A inserted		18
53A.	WDO: effect of cancellation	18	
26.	Section 55A amended		19
27.	Part 5A inserted		19
Part 5A — Publication of details of persons on Registrar's website			
Division 1 — Preliminary			
56A.	Terms used	19	
56B.	Outstanding registered fines	20	
56C.	Relevant details of persons	21	
Division 2 — Publication of relevant details of persons on Registrar's website			
56D.	Publication of relevant details of persons on Registrar's website	22	
56E.	Removal of relevant details from website	23	
28.	Section 63 amended		24
29.	Section 65 replaced		25
65.	Warrant has indefinite life	25	
30.	Section 68A amended		26
31.	Section 68B inserted		27
68B.	Notice of right to apply under s. 101AA to be given for warrants issued under Part 3	27	
32.	Section 69 amended		28
33.	Section 70E amended		29
34.	Part 7 Division 6A inserted		29
Division 6A — Additional powers relating to vehicles			
Subdivision 1 — General provisions			
95A.	Application of this Division	29	
95B.	Warning notices	30	
Subdivision 2 — Immobilisation of vehicles			
95C.	Immobilisation of vehicles	30	
95D.	Removal of immobilisation of vehicle	31	

	95E.	Offences relating to immobilisation of vehicles	32	
		Subdivision 3 — Removal of number plates		
	95F.	Removal of number plates	32	
	95G.	Vehicle licence suspension order made when number plates are removed	34	
	95H.	Return of number plates	35	
	95I.	Offence of interfering with or removing notice	36	
		Subdivision 4 — Vehicle licence cancellation orders		
	95J.	Vehicle licence cancellation order	36	
		Subdivision 5 — Powers for this Division		
	95K.	Powers enabling immobilisation of vehicles and removal of number plates etc.	38	
35.		Section 98A inserted		40
	98A.	Seized property to be released if warrant ceases to be in force	40	
36.		Section 101AA inserted		40
	101AA.	Magistrates Court may set aside enforcement warrant issued under Part 3	40	
37.		Section 101B amended		42
38.		Section 101C amended		44
39.		Section 101D amended		45
40.		Section 108B inserted		46
	108B.	Amounts to be credited to agency special purpose account	46	
41.		Section 108 amended		47
42.		Part 9 inserted		48
		Part 9 — Transitional and validation provisions		
	110.	Transitional provisions as to warrants of execution	48	
	111.	Transitional provisions as to notices of intention to suspend licences issued under s. 18	48	
	112.	Transitional provisions as to notices of intention to suspend licences issued under s. 42	49	
	113.	Transitional provisions as to infringement notices	49	
	114.	Validation	50	
43.		Other provisions amended		50

**Part 3 — *Equal Opportunity Act 1984*
amended**

44.	Act amended	53
45.	Long title amended	53
46.	Section 3 amended	53
47.	Section 4 amended	53
48.	Section 5 amended	53
49.	Part IVC inserted	54

**Part IVC — Discrimination on ground of publication
of relevant details of persons on Fines
Enforcement Registrar's website**

Division 1 — General

67A.	Discrimination on ground of publication of relevant details on Fines Enforcement Registrar's website	54
------	--	----

Division 2 — Discrimination in work

67B.	Discrimination against applicants and employees	55
67C.	Discrimination against commission agents	56
67D.	Discrimination against contract workers	57
67E.	Professional or trade organisations etc.	57
67F.	Qualifying bodies	58
67G.	Employment agencies	59

Division 3 — Discrimination in other areas

	67H. Goods, services and facilities	59
	67I. Accommodation	60
50.	Section 67 amended	61
51.	Section 80 amended	61
52.	Section 135 amended	62
53.	Section 137 amended	62
54.	Section 140 amended	63

Part 4 — Other Acts amended

**Division 1 — *Criminal Investigation (Identifying
People) Act 2002* amended**

55.	Act amended	64
56.	Section 73 amended	64

**Division 2 — *Electricity Corporations Act 2005*
amended**

57.	Act amended	64
58.	Section 50A inserted	64

50A.	Disclosure of information to fines Registrar	64
	Division 3 — <i>Mines Safety and Inspection Act 1994</i> amended	
59.	Act amended	65
60.	Section 101F amended	65
61.	Section 101J amended	65
	Division 4 — <i>Occupational Safety and Health Act 1984</i> amended	
62.	Act amended	65
63.	Section 55L amended	65
64.	Section 55P amended	66
	Division 5 — <i>Parental Support and Responsibility Act 2008</i> amended	
65.	Act amended	66
66.	Section 36 amended	66
	Division 6 — <i>Rail Safety Act 2010</i> amended	
67.	Act amended	67
68.	Section 208 amended	67
69.	Section 212 amended	67
	Division 7 — <i>Road Traffic Act 1974</i> amended	
70.	Act amended	67
71.	Section 17 amended	68
72.	Section 27A amended	69
	Division 7A — <i>Road Traffic (Vehicles) Act 2012</i> amended	69
73.	Act amended	69
74.	Section 5 amended	70
75.	Section 16 amended	71
76.	Section 125 amended	71
	Division 8 — <i>Sentencing Act 1995</i> amended	
77.	Act amended	72
78.	Section 57A amended	72
79.	Section 57B amended	72

Western Australia

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

No. 48 of 2012

An Act to amend the *Fines, Penalties and Infringement Notices Enforcement Act 1994* and the *Equal Opportunity Act 1984* and for related purposes.

[Assented to 29 November 2012]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — Fines, Penalties and Infringement Notices
Enforcement Act 1994 amended**

3. Act amended

This Part amends the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

4. Section 3 amended

(1) In section 3(1) insert in alphabetical order:

child means a person who is under 18 years of age;

Department of Corrective Services means the department of the Public Service principally assisting the Minister in the administration of the *Court Security and Custodial Services Act 1999*;

Electricity Retail Corporation means the Electricity Retail Corporation established under the *Electricity Corporations Act 2005* section 4(1)(c);

number plate —

(a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in the *Road Traffic Act 1974* section 5(1); or

(b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — has the meaning given in that section;

Sheriff means the Sheriff of Western Australia;

(2) At the end of section 3 insert:

(2) For the purposes of this Act, a vehicle is licensed in the name of a person if the person holds the vehicle licence

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 5

in respect of the vehicle, whether or not the vehicle licence is suspended.

5. Section 5 amended

- (1) In section 5(3) delete “Part 4 or 7, a person’s” and insert:

Part 4 or 7 on a person or the publication of relevant details of a person under Part 5A, if a fine has been imposed on the person, the person’s

- (2) Delete section 5(4) and insert:

- (4) For the purposes of the service of any document under this Act, a person’s last known address may be taken to be the person’s current address shown in the records of —

- (a) the Director General; or
- (b) the Electricity Retail Corporation.

6. Section 7A amended

Before section 7A(1)(a) insert:

- (aa) the power under section 21A to issue an enforcement warrant; and

7. Section 10 amended

- (1) In section 10 after “necessary” insert:

or convenient

- (2) In section 10 delete the passage that begins with “of the records” and continues to the end of the section and insert:

of —

- (a) the records kept by the Director General under the *Road Traffic Act 1974* or, after the *Road Traffic (Administration) Act 2008* section 4 comes into operation, a road law in relation to drivers’ licences and vehicle licences; and
- (b) the records that the Electricity Retail Corporation has of the names and addresses of its customers.

Note: The heading to amended section 10 is to read:

**Registrar has access to records of Director General and
Electricity Retail Corporation**

8. Section 10A amended

In section 10A delete “Police” and insert:

Police, or to an officer of the Department of Corrective Services,

Note: The heading to amended section 10A is to read:

**Registrar may disclose information to Commissioner of Police or
officer of Department of Corrective Services**

9. Section 11 amended

- (1) In section 11 insert in alphabetical order:

aggregate unpaid infringement amount, in relation to an alleged offender, means the aggregate of the unpaid

s. 9

infringement amounts for each outstanding order to pay or elect in relation to the alleged offender;

outstanding order to pay or elect, in relation to an alleged offender, means an order to pay or elect issued to the alleged offender under section 17, where —

- (a) the modified penalty, and enforcement fees, specified in that order have not been paid in full, or recovered in full under an enforcement warrant; and
- (b) an election has not been made under section 21 in relation to the infringement notice to which the order relates; and
- (c) no time to pay order is in force under section 27A in respect of the alleged offender and the modified penalty, and enforcement fees, specified in that order; and
- (d) if an enforcement warrant issued under section 21A is in force in respect of the alleged offender and the modified penalty, and enforcement fees, specified in the order — no arrangement under section 68A is in force in relation to the warrant; and
- (e) the prosecuting authority has not, under section 22, withdrawn proceedings in respect of the infringement notice to which the order relates;

unpaid infringement amount, in relation to an order to pay or elect issued under section 17, means that amount of the modified penalty, and enforcement fees, specified in the order that has not been paid, or recovered under an enforcement warrant.

- (2) In section 11 in the definition of *registered* delete “section 16.” and insert:

section 16;

10. Section 17 amended

- (1) After section 17(1) insert:

(2A) An order to pay or elect must not relate to more than one registered infringement notice.

- (2) In section 17(4) delete “licence suspension order.” and insert:

licence suspension order or may, in some circumstances, issue an enforcement warrant.

11. Section 18 amended

- (1) In section 18(1) delete “suspend licences.” and insert:

enforce.

- (2) Delete section 18(2) and insert:

(2) A notice of intention to enforce must be served on the alleged offender.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 11

(3) In section 18(3):

(a) delete “suspend licences” and insert:

enforce

(b) delete “the Registrar may make a licence suspension order in respect of the alleged offender.” and insert:

the Registrar —

(c) may make a licence suspension order in respect of the alleged offender; and

(d) in some circumstances, may issue an enforcement warrant in respect of the alleged offender.

(4) In section 18(4) delete “suspend licences.” and insert:

enforce.

(5) In section 18(5):

(a) delete “suspend licences” and insert:

enforce

(b) after paragraph (c) insert:

(da) state that, if the Registrar issues an enforcement warrant —

(i) the alleged offender will cease to be entitled to make an election under section 21 in relation to the

infringement notice to which the
warrant relates; and

- (ii) the alleged offender will be required to
pay the modified penalty, and
enforcement fees, specified in the
warrant;

and

- (db) state the effect that an enforcement warrant will
have if it is issued; and

- (6) In section 18 after each of subsections (1)(a) and (5)(a) and (b)
insert:

and

Note: The heading to amended section 18 is to read:

Notice of intention to enforce

12. Section 19 amended

- (1) In section 19(1):
 - (a) in paragraph (a) delete “suspend licences;” and insert:

enforce; and
 - (b) delete “the Registrar” and insert:

then, whether or not an enforcement warrant issued
under section 21A is in force, the Registrar

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 13

(2) In section 19(5) delete “suspend licences” and insert:

enforce

(3) In section 19:

(a) after subsection (3)(a) insert:

or

(b) after subsection (9)(a) insert:

and

13. Section 20 amended

Delete section 20(1)(a) and insert:

(a) the relevant modified penalty and the associated enforcement fees are paid to the Registry or recovered under an enforcement warrant; or

14. Section 21A inserted

At the end of Part 3 Division 2 insert:

21A. Enforcement warrant

(1) If —

(a) 28 days have elapsed since the day on which a notice of intention to enforce was issued; and

- (b) the modified penalty, and enforcement fees, specified in the notice have not been paid to the Registry; and
- (c) the alleged offender has not made an election under section 21; and
- (d) the aggregate unpaid infringement amount in relation to the alleged offender is at least —
 - (i) \$2 000; or
 - (ii) if regulations prescribe a higher amount for the purposes of this paragraph — that higher amount,

then, whether or not a licence suspension order made under section 19 is in force, the Registrar may issue an enforcement warrant.

- (2) An enforcement warrant must be in the prescribed form and be directed to the Sheriff.
- (3) An enforcement warrant must specify the modified penalty and enforcement fees owed by the alleged offender.
- (4) An enforcement warrant must be executed under Part 7.
- (5) The Registrar may at any time cancel an enforcement warrant for good reason.

15. Section 21 amended

- (1) In section 21(1):
 - (a) in paragraph (c) delete “27A(4),” and insert:

27A(4); and

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 16

(b) after paragraph (c) insert:

(d) before an enforcement warrant is issued in respect of the modified penalty and enforcement fees,

(2) In section 21 after each of subsections (1)(a) and (4)(a) insert:

and

16. Section 22 amended

(1) In section 22(4):

(a) in paragraph (a) delete “notice;” and insert:

notice; and

(b) after paragraph (b) insert:

(ca) if an enforcement warrant has been issued in respect of the alleged offender and the infringement notice — the warrant is cancelled; and

(2) Delete section 22(5) and insert:

(5) If proceedings are withdrawn under this section —

(a) the alleged offender is to be refunded any amount paid under this Part by the alleged offender in respect of the alleged offence; and

- (b) if —
 - (i) an enforcement warrant was issued in respect of the infringement notice; and
 - (ii) property of the alleged offender was seized and sold under the enforcement warrant before it was cancelled under subsection (4)(ca),the alleged offender is to be paid an amount equal to the market value of the sold property; and
- (c) if —
 - (i) an enforcement warrant was issued in respect of the infringement notice; and
 - (ii) under the enforcement warrant, a vehicle licence cancellation order was made in respect of a vehicle registered in the name of the alleged offender,the alleged offender is to be paid an amount calculated in accordance with the regulations.

17. Section 27A amended

In section 27A(2):

- (a) in paragraph (b) delete “section 21.” and insert:

section 21; or
- (b) after paragraph (b) insert:
- (c) if an enforcement warrant issued under section 21A is in force in relation to the infringement notice.

s. 18

18. Section 32 replaced

Delete section 32 and insert:

32. Offender must pay fine or get time to pay order

- (1) When a fine is imposed, an offender must either —
 - (a) pay the fine; or
 - (b) apply for a time to pay order in respect of the fine.
- (2) If —
 - (a) a fine has been imposed; and
 - (b) the offender has not paid the fine; and
 - (c) the offender has not applied for a time to pay order in respect of the fine or the offender's application for a time to pay order in respect of the fine was refused,

a court officer, without notice to the offender, may at any time register the fine.

19. Section 39 amended

Delete section 39(1) and insert:

- (1) A fine imposed on an offender may be registered by a court officer if the prosecuting authority has given the court officer a written notice requesting the court officer to register the fine.

Note: The heading to amended section 39 is to read:

Fine may be registered at request of prosecuting authority

20. Section 42 replaced

Delete section 42 and insert:

42. Notice of intention to enforce

- (1) When a fine is registered, the Registrar may issue a notice of intention to enforce.
- (2) A notice of intention to enforce must be served on the offender.
- (3) A notice of intention to enforce must contain a statement to the effect that unless before a date specified in the notice (the *due date*) the amount owed is paid, the Registrar —
 - (a) may make a licence suspension order in respect of the offender; and
 - (b) may issue an enforcement warrant in respect of the offender; and
 - (c) may issue an order to attend for work and development to the offender; and
 - (d) in some circumstances, may issue a warrant of commitment in respect of the offender.
- (4) The due date must not be earlier than 28 days after the date of issue of the notice of intention to enforce.
- (5) A notice of intention to enforce must also —
 - (a) state the date and time when the licence suspension order will have effect if it is made; and
 - (b) explain that if a licence suspension order is made it will not be cancelled until the amount owed is paid; and

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 21

- (c) explain the effect of the licence suspension order that may be made; and
- (d) state the effect that an enforcement warrant will have if it is issued; and
- (e) contain such other information as is prescribed.

21. Section 43 amended

(1) In section 43(1):

(a) in paragraph (a) delete “suspend licences; and” and insert:

enforce; and

(b) delete “the Registrar” and insert:

then, whether or not an enforcement warrant issued under section 45 is in force, the Registrar

(2) In section 43(5) delete “suspend licences” and insert:

enforce

(3) In section 43:

(a) after subsection (3)(a) insert:

or

(b) after subsection (9)(a) insert:

and

22. Section 44 amended

In section 44(1) delete “paid.” and insert:

paid or recovered under an enforcement warrant.

23. Section 45 amended

Delete section 45(1), (2) and (3) and insert:

(1) If —

(a) 28 days have elapsed since the date of issue of a notice of intention to enforce; and

(b) the amount owed has not been paid,

then, whether or not a licence suspension order made under section 43 is in force, the Registrar may issue an enforcement warrant.

(2) An enforcement warrant must be in the prescribed form and be directed to the Sheriff.

(3) An enforcement warrant must be executed under Part 7.

s. 24

24. Section 48A inserted

After section 47B insert:

48A. Order to attend for work and development: cancellation

- (1) If —
 - (a) an order to attend for work and development is issued under section 47 or 47A; and
 - (b) it is not reasonably practicable to serve the order on the offender personally,

the Registrar may cancel the order to attend for work and development and make or again make a licence suspension order in respect of the offender.

- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

25. Section 53A inserted

After section 52 insert:

53A. WDO: effect of cancellation

- (1) If a WDO is cancelled under section 52, the Registrar may make or again make a licence suspension order in respect of the offender.
- (2) For the purposes of subsection (1), section 43(2) to (9) (but not section 43(4)), with any necessary changes, apply and a licence suspension order may be made even if section 42 has not been complied with.

26. Section 55A amended

Delete section 55A(2)(b) and insert:

- (b) if an enforcement warrant issued under section 45 is in force.

27. Part 5A inserted

After Part 4 insert:

**Part 5A — Publication of details of persons on
Registrar's website**

Division 1 — Preliminary

56A. Terms used

In this Part —

aggregate amount owed, by a person, means the aggregate of —

- (a) the amount owed for each outstanding registered fine in relation to the person; and
- (b) the amount owed for each outstanding order to pay or elect in relation to the person;

amount owed means —

- (a) for an order to pay or elect issued under section 17 — that amount of the modified penalty, and enforcement fees, specified in the order that has not been paid, or recovered under an enforcement warrant; or
- (b) for a fine — that amount of a fine, and any enforcement fees in relation to the fine, that has

s. 27

not been paid, or recovered under an enforcement warrant;

enforcement fees means prescribed fees imposed in connection with proceedings under Part 3 or 4 and includes the registration fee referred to in section 16;

fine has the meaning given in section 28(1);

modified penalty has the meaning given in section 11;

outstanding order to pay or elect has the meaning given in section 11;

outstanding registered fine has the meaning given in section 56B;

Registrar's website means a website, or a part of a website, controlled and managed by the Registrar;

relevant details has the meaning given in section 56C.

56B. Outstanding registered fines

An *outstanding registered fine*, in relation to a person, means a fine imposed on the person, where —

- (a) the fine is registered under section 41; and
- (b) at least 28 days have elapsed since the day on which the fine was imposed; and
- (c) the fine, and any enforcement fees in relation to the fine, have not been paid in full or recovered in full under an enforcement warrant; and
- (d) no time to pay order under section 55A is in force in respect of the person and the amount owed; and
- (e) if an enforcement warrant is in force in respect of the person and the amount owed — no arrangement under section 68A is in force in relation to the warrant; and

- (f) if a work and development order has been made in respect of the person and the amount owed — the order has not been completed under section 51; and
- (g) the person's liability to pay the amount owed has not been discharged under section 53(5); and
- (h) either —
 - (i) the person has not appealed against the fine, or a decision giving rise to the fine, for the purposes of section 101B; or
 - (ii) any appeal against the fine, or a decision giving rise to the fine, has been disposed of (within the meaning of section 101B), and the fine is still payable.

56C. Relevant details of persons

The *relevant details* of a person are —

- (a) for an individual, the following details only —
 - (i) the individual's surname;
 - (ii) the individual's given names;
 - (iii) the street, and the suburb or town, in which the individual resides according to the individual's last known address;
 - (iv) whether there are one or more outstanding orders to pay or elect, or outstanding registered fines, or both, in relation to the individual;
 - (v) the aggregate amount owed by the individual;

or

s. 27

- (b) for a body corporate, the following details only —
 - (i) the registered name of the body corporate;
 - (ii) the street, and the suburb or town, at which the registered office of the body corporate is located;
 - (iii) whether there are one or more outstanding orders to pay or elect, or outstanding registered fines, or both, in relation to the body corporate;
 - (iv) the aggregate amount owed by the body corporate.

Division 2 — Publication of relevant details of persons on Registrar’s website

56D. Publication of relevant details of persons on Registrar’s website

- (1) If, in relation to a person, there are one or more —
 - (a) outstanding orders to pay or elect; or
 - (b) outstanding registered fines,

the Registrar may cause some or all of the relevant details of the person to be published on the Registrar’s website.

- (2) The Registrar must not cause any relevant details of a person to be published under this section if the Registrar has grounds to suspect —
 - (a) the person is a child; or
 - (b) all of the following conditions are satisfied —
 - (i) there are one or more outstanding registered fines in relation to the person;

- (ii) an order prohibiting the publication of the person's name was made in the proceedings in which any of those outstanding registered fines was imposed;
 - (iii) the order is in force;
 - or
 - (c) the person is a person protected under a violence restraining order, or police order, in force under the *Restraining Orders Act 1997*; or
 - (d) the publication of the relevant details would endanger the person's safety.
- (3) If —
- (a) relevant details of a person are published under this section on the Registrar's website; and
 - (b) the Registrar becomes aware that any of the relevant details of the person has changed; and
 - (c) section 56E(2) does not apply,

the Registrar must cause the relevant details published on the website to be updated as soon as practicable.

56E. Removal of relevant details from website

- (1) The Registrar may, at any time, cause some or all of the relevant details of a person to be removed from the Registrar's website.
- (2) If —
 - (a) under section 56D, relevant details of a person are published on the Registrar's website; and
 - (b) there ceases to be any outstanding order to pay or elect, or outstanding registered fine, in relation to the person,

s. 28

the Registrar must cause the relevant details of the person to be removed from the website as soon as practicable.

28. Section 63 amended

(1) In section 63 delete “In this” and insert:

(1) In this

(2) In section 63 delete the definitions of:

offender

Sheriff

(3) In section 63 insert in alphabetical order:

debtor means —

- (a) in relation to a warrant issued under Part 3 — the alleged offender in respect of whom the warrant is issued; or
- (b) in relation to a warrant issued under Part 4 — the offender in respect of whom the warrant is issued; or
- (c) in relation to a warrant issued under Part 6 — the body corporate in respect of which the warrant is issued;

vehicle licensing law —

- (a) before the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means the *Road Traffic Act 1974*; or
- (b) after the *Road Traffic (Vehicles) Act 2012* section 3 comes into operation — means that Act;

warning notice means a notice affixed to a vehicle under section 95B(1);

- (4) In section 63 in the definition of **warrant** delete “a warrant of execution issued under Part 4 or Part 6.” and insert:

an enforcement warrant issued under Part 3, 4 or 6.

- (5) At the end of section 63 insert:

- (2) When this Part refers to removing the immobilisation of a vehicle it means —
- (a) if the vehicle was immobilised by a wheel clamp — removing the wheel clamp; or
 - (b) if the vehicle was immobilised using another means prescribed by the regulations — removing the effect of the means by which the vehicle was immobilised.

29. Section 65 replaced

Delete section 65 and insert:

65. Warrant has indefinite life

Unless sooner cancelled, a warrant remains in force —

- (a) until the amount specified in the warrant, and any enforcement fees, are paid; or
- (b) until the amount specified in the warrant, and any enforcement fees, are recovered under the warrant; or

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 30

- (c) in the case of a warrant issued under Part 4 — until an order to attend for work and development is served on the offender,

whichever happens first.

30. Section 68A amended

- (1) After section 68A(1) insert:

- (2A) The Sheriff must not enter into an arrangement under subsection (1) unless the debtor gives the Sheriff the debtor's current address.

- (2) After section 68A(4) insert:

- (5A) If the Sheriff cancels an arrangement made under subsection (1) and a licence suspension order is not in force in respect of the debtor and the amount specified in the warrant under section 21A(3) or 45(4), as the case requires, the Registrar may make or again make a licence suspension order in respect of the debtor.

- (5B) For the purposes of subsection (5A) —

- (a) if the cancelled arrangement related to a warrant issued under section 21A — section 19(2) to (9), with any necessary changes, apply and a licence suspension order may be made without the issue of a further order to pay or elect under section 17 or further notice of intention to enforce under section 18; or
- (b) if the cancelled arrangement related to a warrant issued under section 45 — section 43(2) to (9), with any necessary changes, apply

and a licence suspension order may be made without the issue of a further notice of intention to enforce under section 42.

31. Section 68B inserted

After section 68A insert:

68B. Notice of right to apply under s. 101AA to be given for warrants issued under Part 3

(1) In this section —

enforcement action means any of the following actions taken under a warrant —

- (a) seizing personal property in accordance with section 71;
- (b) seizing land in accordance with section 88;
- (c) immobilising a vehicle in accordance with section 95C;
- (d) removing number plates from a vehicle in accordance with section 95F.

(2) When the Sheriff takes the first enforcement action under a warrant issued under Part 3, the Sheriff must give the debtor a notice explaining that —

- (a) the debtor may apply to the Magistrates Court for an order cancelling the warrant; and
- (b) the application must be made within 14 days after the notice is given.

(3) A notice under subsection (2) must be given —

- (a) if the first enforcement action is seizing personal property — by serving it on the debtor

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 32

with the notice of seizure required to be served under section 80; or

- (b) if the first enforcement action is seizing land — by serving it on the debtor as soon as practicable after the memorial referred to in section 89 is lodged; or
- (c) if the first enforcement action is immobilising a vehicle — by affixing the notice to the vehicle with the notice required to be affixed to the vehicle under section 95C(4); or
- (d) if the first enforcement action is removing number plates from a vehicle — by affixing the notice to the vehicle with the notice required to be affixed to the vehicle under section 95F(3).

32. Section 69 amended

Delete section 69(1) and insert:

- (1) In respect of a warrant, the Sheriff may apply to the Magistrates Court for an order —
 - (a) that the debtor; or
 - (b) if the debtor is a body corporate — that a person having the management of the body, personally attend the court to be examined about —
 - (c) the existence and whereabouts and value of any property that might be seized under the warrant including any debts due to the debtor; and
 - (d) the existence and whereabouts of any vehicle licensed in the name of the debtor.

Note: The heading to amended section 69 is to read:

**Examination in aid of seizure or exercise of additional powers
relating to vehicles**

33. Section 70E amended

After section 70E(3) insert:

- (4) If a warrant was issued under Part 3, an offender's saleable interest in real or personal property must not be sold under the warrant unless either —
- (a) 14 days have elapsed since the notice under section 68B was given to the debtor, and no application has been made to the Magistrates Court under section 101AA in respect of the warrant; or
 - (b) any application made to the Magistrates Court under section 101AA has been disposed of (within the meaning of that section), and the warrant remains in force.

34. Part 7 Division 6A inserted

After Part 7 Division 5 insert:

Division 6A — Additional powers relating to vehicles

Subdivision 1 — General provisions

95A. Application of this Division

This Division applies to a warrant issued under Part 3 or 4.

s. 34

95B. Warning notices

- (1) A warrant issued in respect of a debtor entitles the Sheriff to affix a notice that complies with subsection (2) to one or more vehicles licensed in the name of the debtor.
- (2) The notice must include information about the enforcement action that may be taken by the Sheriff in relation to the vehicle under this Division.
- (3) The power in subsection (1) may be exercised whether or not the Sheriff has previously exercised any other powers under the warrant in relation to the vehicle.

Subdivision 2 — Immobilisation of vehicles

95C. Immobilisation of vehicles

- (1) A warrant issued in respect of a debtor entitles the Sheriff to immobilise one or more vehicles licensed in the name of the debtor using —
 - (a) one or more wheel clamps; or
 - (b) another means prescribed by the regulations.
- (2) A vehicle must not be immobilised under a warrant at a particular place unless the Sheriff is satisfied that immobilising the vehicle at that place will not —
 - (a) cause the vehicle to be parked in contravention of a written law; or
 - (b) cause undue inconvenience to persons other than the debtor.
- (3) A vehicle must not be immobilised under a warrant if, at the time of the immobilisation —
 - (a) the number plates of the vehicle have been removed in accordance with section 95F; and

- (b) the number plates have not been returned to the debtor.
- (4) If the Sheriff immobilises a vehicle under a warrant, the Sheriff must affix to the vehicle a notice that complies with subsection (5).
- (5) A notice affixed to a vehicle under subsection (4) must include at least the following information —
 - (a) that a warrant has been issued in respect of the holder of the vehicle licence; and
 - (b) the time at which the vehicle was immobilised; and
 - (c) that it is an offence to remove the notice while the vehicle remains immobilised under a warrant; and
 - (d) information about what the debtor may do to have the immobilisation of the vehicle removed; and
 - (e) that the Sheriff may take further enforcement action against the debtor if the debtor does not pay the amount owed under the warrant and any enforcement fees; and
 - (f) any other information prescribed by the regulations.
- (6) A notice under subsection (4) may be in 2 parts.

95D. Removal of immobilisation of vehicle

- (1) The Sheriff may at any time remove the immobilisation of a vehicle that has been immobilised under a warrant.
- (2) If —
 - (a) a vehicle is immobilised under a warrant; and

s. 34

(b) the warrant ceases to be in force,

the Sheriff must remove the immobilisation of the vehicle as soon as practicable.

95E. Offences relating to immobilisation of vehicles

(1) A person must not, without reasonable excuse, remove a vehicle that is immobilised under a warrant from the place at which it is immobilised.

Penalty: a fine of \$2 000.

(2) A person must not, without reasonable excuse —

(a) interfere with or remove a wheel clamp by which a vehicle is immobilised under a warrant;
or

(b) otherwise remove the immobilisation of a vehicle immobilised under a warrant.

Penalty: a fine of \$2 000.

(3) A person must not, without reasonable excuse, interfere with or remove a notice affixed to a vehicle under section 95C(4), or any part of such a notice, at any time while the vehicle is immobilised under a warrant.

Penalty for an offence under subsection (3): a fine of \$2 000.

Subdivision 3 — Removal of number plates

95F. Removal of number plates

(1) A warrant issued in respect of a debtor entitles the Sheriff to remove the number plates from one or more vehicles licensed in the name of the debtor.

- (2) The number plates of a vehicle must not be removed under a warrant if —
 - (a) the vehicle has been immobilised under a warrant; and
 - (b) the immobilisation of the vehicle has not been removed.
- (3) If the Sheriff removes the number plates of a vehicle under this section, the Sheriff must affix to the vehicle a notice that complies with subsection (4).
- (4) A notice affixed to a vehicle under subsection (3) must include at least the following information —
 - (a) that a warrant has been issued in respect of the holder of the vehicle licence; and
 - (b) the time at which the number plates were removed; and
 - (c) that the vehicle licence has been suspended and the debtor is disqualified from holding or obtaining a vehicle licence for the vehicle; and
 - (d) that it is an offence to remove the notice before the number plates are returned or a vehicle licence cancellation order is made in respect of the vehicle; and
 - (e) information about what the debtor may do to have the number plates returned; and
 - (f) that the Sheriff may take further enforcement action against the debtor if the debtor does not pay the amount owed under the warrant and any enforcement fees; and
 - (g) any other information prescribed by the regulations.
- (5) A notice under subsection (3) may be in 2 parts.

s. 34

- (6) Subject to sections 95H and 95J, number plates removed under a warrant are to be kept in safe custody by the Sheriff.

95G. Vehicle licence suspension order made when number plates are removed

- (1) At the time the number plates of a vehicle are removed under a warrant, the Sheriff must make a vehicle licence suspension order in respect of the vehicle.
- (2) A vehicle licence suspension order is an order disqualifying the debtor from holding or obtaining a vehicle licence for the vehicle.
- (3) As soon as practicable after the number plates of a vehicle are removed under a warrant —
- (a) the Sheriff must advise the Registrar of the terms of the order; and
 - (b) the Registrar must advise the Director General of the terms of the order.
- (4) For the purposes of this Act and a vehicle licensing law, a vehicle licence suspension order made under subsection (1) —
- (a) takes effect when the number plates are removed; and
 - (b) is in force from the time it takes effect to the time when it is cancelled.
- (5) If —
- (a) a vehicle licence suspension order is made under subsection (1) when the number plates of a vehicle are removed under a warrant; and
 - (b) either —
 - (i) the warrant ceases to be in force; or

- (ii) the number plates are returned to the debtor; or
- (iii) a vehicle licence cancellation order is made in respect of the vehicle under section 95J,

the vehicle licence suspension order is taken to be cancelled.

- (6) If a vehicle licence suspension order is cancelled under subsection (5), the Registrar must notify the Director General of the cancellation as soon as practicable.

95H. Return of number plates

- (1) If the number plates of a vehicle licensed in the name of a debtor have been removed under a warrant, the Sheriff may at any time return the number plates to the debtor.
- (2) If —
 - (a) the number plates of a vehicle licensed in the name of a debtor have been removed under a warrant; and
 - (b) the warrant ceases to be in force; and
 - (c) a vehicle licence cancellation order has not been made in respect of the vehicle under section 95J; and
 - (d) the vehicle remains licensed in the name of the debtor,

the Sheriff must return the number plates to the debtor as soon as practicable.

s. 34

- (3) Without limiting subsections (1) and (2), the Sheriff may return number plates to a debtor by —
- (a) notifying the debtor in writing that the debtor may collect the number plates from a place and during periods specified in the notice; and
 - (b) making the number plates available for collection in accordance with the notice.

95I. Offence of interfering with or removing notice

- (1) In this section —
affected vehicle means a vehicle from which the number plates have been removed under a warrant.
- (2) A person who, without reasonable excuse, interferes with or removes a notice affixed to an affected vehicle under section 95F(3), or any part of such a notice, commits an offence unless —
- (a) the number plates have been returned to the debtor in whose name the vehicle is licensed; or
 - (b) a vehicle licence cancellation order has been made in respect of the vehicle under section 95J.

Penalty: a fine of \$2 000.

Subdivision 4 — Vehicle licence cancellation orders

95J. Vehicle licence cancellation order

- (1) If —
- (a) the number plates of a vehicle licensed in the name of a debtor have been removed under a warrant; and
 - (b) 28 days have elapsed since the day on which the number plates were removed; and

- (c) the warrant remains in force,
the Sheriff may make a vehicle licence cancellation order in respect of the vehicle.
- (2) A vehicle licence cancellation order is an order —
- (a) cancelling the vehicle licence of a vehicle specified in the order; and
 - (b) disqualifying the debtor from holding or obtaining a vehicle licence in respect of that vehicle.
- (3) If the Sheriff makes a vehicle licence cancellation order, the Sheriff must —
- (a) serve a copy of the order on the debtor; and
 - (b) advise the Registrar of the terms of the order; and
 - (c) give the number plates that were removed from the vehicle to the Director General.
- (4) As soon as practicable after receiving advice under subsection (3), the Registrar must advise the Director General of the terms of the vehicle licence cancellation order.
- (5) For the purposes of this Act and a vehicle licensing law, a vehicle licence cancellation order takes effect when it is made.
- (6) If —
- (a) a vehicle licence cancellation order is made in respect of a vehicle and a debtor; and
 - (b) the warrant under which the order is made ceases to be in force,

the vehicle licence cancellation order is taken to be cancelled to the extent that the order would disqualify

s. 34

the debtor from holding or obtaining a vehicle licence in respect of that vehicle.

- (7) If a vehicle licence cancellation order is cancelled under subsection (6), the Registrar must notify the Director General of the cancellation as soon as practicable.
- (8) The making of a vehicle licence cancellation order under this section in relation to a vehicle does not entitle the debtor to the refund of any fee paid in respect of the grant or renewal of the vehicle licence.

Subdivision 5 — Powers for this Division

95K. Powers enabling immobilisation of vehicles and removal of number plates etc.

- (1) Under a warrant, using any force and assistance that is reasonably necessary in the circumstances, the Sheriff may do any or all of the following —
 - (a) enter any place that is occupied by the debtor for the purpose of immobilising, removing the number plates of, or affixing a warning notice to, a vehicle licensed in the name of the debtor;
 - (b) enter any place that —
 - (i) is not occupied by the debtor; and
 - (ii) is not a public place,for the purpose of immobilising, removing the number plates of, or affixing a warning notice to, a vehicle licensed in the name of the debtor;
 - (c) from time to time re-enter any place described in paragraph (a) or (b) for the purpose of performing the Sheriff's functions under this Act and the warrant.

- (2) The powers in —
- (a) subsection (1)(a); and
 - (b) subsection (1)(c), to the extent that it applies in relation to a place referred to in subsection (1)(a),

may be exercised at any time of the day or night.

- (3) The powers in —
- (a) subsection (1)(b); and
 - (b) subsection (1)(c), to the extent that it applies in relation to a place referred to in subsection (1)(b),

may be exercised at any time of the day or night but must not be exercised without the consent of the occupier of the place or, if there is no occupier, the owner.

- (4) Despite subsection (3), if —
- (a) the consent referred to in subsection (3) is unreasonably withheld; or
 - (b) the Sheriff, after reasonable attempts to do so, cannot contact the owner or occupier of the place,

the Sheriff may exercise the powers referred to in subsection (3) without that consent.

s. 35

35. Section 98A inserted

After section 97 insert:

98A. Seized property to be released if warrant ceases to be in force

If —

- (a) a warrant ceases to be in force; and
- (b) at the time of the cessation, property has been seized under the warrant but has not been sold,

the Sheriff must release the property from seizure as soon as practicable.

36. Section 101AA inserted

After section 101 insert:

101AA. Magistrates Court may set aside enforcement warrant issued under Part 3

- (1) In this section —
disposed of means determined, dismissed or discontinued.
- (2) A person in respect of whom an enforcement warrant has been issued under Part 3 (the *applicant*) may apply to the Magistrates Court for an order cancelling the warrant.
- (3) The application must be made no later than 14 days after the Sheriff gives the applicant the notice under section 68B in respect of the enforcement warrant.
- (4) A person cannot apply if the person has previously applied in relation to the enforcement warrant or in

relation to any other enforcement warrant made in respect of the infringement notice to which the warrant relates, and the application was refused.

- (5) The application must be made in accordance with the Magistrates Court's rules of court.
- (6) An enforcement warrant that is in force at the time when an application is made under subsection (2) does not cease to be in force by reason only of the making of the application, but no further action is to be taken under the warrant until the application is disposed of.
- (7) If on an application the applicant satisfies the Court that the applicant received none of the following —
 - (a) the infringement notice that gave rise to the warrant;
 - (b) the final demand issued under section 14 in respect of the infringement notice;
 - (c) the order to pay or elect issued under section 17 in respect of the infringement notice;
 - (d) the notice of intention to enforce issued under section 18 in respect of the infringement notice;
 - (e) any notice confirming licence suspension issued under section 19(6) in respect of the infringement notice,

the Court may make an order cancelling the enforcement warrant.

- (8) If the Court makes an order cancelling an enforcement warrant Part 3 applies in relation to the infringement notice to which the warrant relates as if the Registrar had never issued the warrant.

s. 37

37. Section 101B amended

(1) Delete section 101B(3)(d) and insert:

- (d) an enforcement warrant issued under section 45 is in force, but —
 - (i) no property has been seized under the warrant; and
 - (ii) no vehicle has been immobilised under the warrant; and
 - (iii) no number plates have been removed from a vehicle under the warrant,the warrant is to be taken as being cancelled from that time;

(2) Delete section 101B(4)(a) and (b) and insert:

- (a) an enforcement warrant issued under section 45 is in force and —
 - (i) property has been seized under the warrant; or
 - (ii) a vehicle is or has been immobilised under the warrant; or
 - (iii) number plates have been removed from a vehicle under the warrant,no further action is to be taken under the warrant;

- (3) After section 101B(4) insert:
- (5A) If when a person appeals against a fine or the decision giving rise to a fine —
- (a) subsection (4)(a) applies to an enforcement warrant; and
 - (b) a vehicle is immobilised under the warrant,
- the Sheriff must, as soon as practicable, remove the immobilisation of the vehicle (within the meaning of section 63(2)).
- (5B) If when a person appeals against a fine or the decision giving rise to a fine —
- (a) subsection (4)(a) applies to an enforcement warrant; and
 - (b) number plates have been removed from a vehicle under the warrant; and
 - (c) those number plates have not been returned; and
 - (d) a vehicle licence cancellation order has not been made under section 95J in respect of the vehicle; and
 - (e) the vehicle remains licensed in the name of the person,
- the Sheriff must, as soon as practicable, return the number plates to the person (either in accordance with section 95H(3) or otherwise).
- (5C) If when a person appeals against a fine or the decision giving rise to a fine —
- (a) subsection (4)(a) applies to an enforcement warrant; and

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 38

- (b) a vehicle licence cancellation order has been made under section 95J in respect of a vehicle under the warrant,

the vehicle licence cancellation order is taken to be cancelled to the extent that the order would disqualify the person from holding or obtaining a vehicle licence in respect of that vehicle, and the Registrar must notify the Director General of that cancellation as soon as practicable.

38. Section 101C amended

- (1) In section 101C(1)(d) and (e) after “issued” insert:

by the Registrar

- (2) After section 101C(1) insert:

(2A) Evidence —

- (a) that a vehicle licence suspension order was made under section 95G or a vehicle licence cancellation order was made under section 95J;
- (b) of the details of a vehicle licence suspension order made under section 95G, or a vehicle licence cancellation order made under section 95J, and of the matter to which it relates;
- (c) that a vehicle licence suspension order made under section 95G had not, at a particular time, been cancelled;
- (d) that a vehicle licence cancellation order made under section 95J had not, at a particular time, been cancelled to the extent that the order

would disqualify a person from holding or obtaining a vehicle licence;

- (e) that a document issued by the Sheriff under this Act has been served on a person in accordance with section 5;
- (f) of any matter relevant to the service of a document issued by the Sheriff under this Act,

may be given by tendering a certificate to that effect in the prescribed form signed by the Sheriff.

- (3) After section 101C(3) insert:

- (4) Unless the contrary is proved, it is to be presumed that a certificate purporting to have been signed by the Sheriff was signed by a person who at the time was the Sheriff.

39. Section 101D amended

- (1) Before section 101D(1) insert:

- (1A) In this section —
licence suspension order includes a vehicle licence suspension order made under section 95G.

- (2) In section 101D(1) after “licence suspension order” insert:

or vehicle licence cancellation order

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 40

Note: The heading to amended section 101D is to read:

Validity of certain orders not affected by non-receipt of documents

40. Section 108B inserted

After section 108A insert:

108B. Amounts to be credited to agency special purpose account

An amount equal to the amounts credited to the Consolidated Account under sections 27(2), 55(2) and 96(6) is to be —

- (a) credited to an agency special purpose account that is —
 - (i) established under the *Financial Management Act 2006* section 16 for the purposes of the department of the Public Service principally assisting the Minister in the administration of this Act; and
 - (ii) nominated by the Minister in writing for the purposes of this section;

and

- (b) charged to the Consolidated Account,

and this section appropriates the Consolidated Account accordingly.

41. Section 108 amended

(1) In section 108(3):

(a) delete paragraph (d) and insert:

(d) a fee for issuing a notice of intention to enforce to be imposed on an offender either when a licence suspension order is made or when an enforcement warrant is issued, but not twice;

(b) after paragraph (d) insert:

(ea) a fee for issuing an enforcement warrant to be imposed on an alleged offender when the warrant is issued;

(2) In section 108(5) delete “an offender in connection with executing” and insert:

a debtor (as defined in section 63) in connection with the exercise of powers under

(3) After section 108(7) insert:

(8) The amount of an enforcement fee prescribed under this section may be more than the amount, or an estimate of the amount, needed to allow recovery of expenditure —

(a) incurred in connection with the matter in relation to which the enforcement fee is imposed; or

(b) that is relevant to the scheme or system under which the enforcement fee is imposed.

s. 42

- (9) Subsection (8) does not apply to an enforcement fee prescribed in accordance with subsection (6).

42. Part 9 inserted

After Part 8 insert:

Part 9 — Transitional and validation provisions

110. Transitional provisions as to warrants of execution

- (1) A warrant of execution in force immediately before the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* section 43 comes into operation is, on and after the coming into operation of that section and until it ceases to be in force under this Act, taken to be an enforcement warrant for the purposes of this Act.
- (2) Despite subsection (1), a warrant of execution referred to in that subsection does not authorise any action that can be taken to enforce the payment of the fine under Part 7 Division 6A.

111. Transitional provisions as to notices of intention to suspend licences issued under s. 18

- (1) In this section —
commencement means the coming into operation of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* section 11.

- (2) A notice of intention to suspend licences issued before commencement is, on and after commencement, taken for the purposes of this Act —
- (a) to be a notice of intention to enforce given in accordance with section 18 as in force after commencement; and
 - (b) to have been issued on the day when the notice of intention to suspend licences was issued.

112. Transitional provisions as to notices of intention to suspend licences issued under s. 42

- (1) In this section —
- commencement* means the coming into operation of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* section 20.
- (2) A notice of intention to suspend licences issued under section 42 before commencement is, on and after commencement, taken for the purposes of this Act —
- (a) to be a notice of intention to enforce given in accordance with section 42 as in force after commencement; and
 - (b) to have been issued on the day when the notice of intention to suspend licences was issued.

113. Transitional provisions as to infringement notices

- (1) In this section —
- commencement* means the coming into operation of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* section 14;
- transitional period* means the period of 12 months beginning on commencement.
- (2) This section applies despite any other provision of a written law.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act 1994 amended

s. 43

- (3) An infringement notice issued under a written law —
- (a) before commencement; or
 - (b) during the transitional period,

is not invalid merely because the infringement notice does not inform the alleged offender of action that may be taken under this Act only because of the amendments to this Act made by the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012*.

114. Validation

Regulations made, or purporting to have been made, under section 108 before the commencement of this section are, and are taken to have always been, as effective as they would have been if section 108(8) had been enacted and commenced before those regulations were made.

43. Other provisions amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 5A(2)(g), 7A(1)(a), 41(3), 45(5), 47(1) and (4), 47A(1)(a)(iii), 55D(1)(a) and (d) and (3), 61(2)(b), 106, 108(4)(a) and (b) and (5)	a warrant of execution	an enforcement warrant
s. 45(4), 61(3), 105(1)	A warrant of execution	An enforcement warrant

**Fines, Penalties and Infringement Notices Enforcement Amendment
Act 2012**

Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

Part 2

s. 43

Provision	Delete	Insert
s. 47(2), 47A(3)(b), 101B(5)(b)	warrant of execution (each occurrence)	enforcement warrant
Pt. 7 heading	Warrants of execution	Enforcement warrants
s. 67(1), 68A(2), 70(2), 71(2), 75, 80(1), 86(3), 88(2), 95(2), 97(1)	an offender (each occurrence)	a debtor
s. 68A(1), (2), (5) and (6), 69(2), 70(3), 70C(2)(a), 70D, 71(2), 75, 76(1), 77(1)(b) and (2), 78(1), 80(2) and (3)(a), 81(2), (3) and (4), 86(2), 87(1), 88(2)(a), 89(6), 91(1), 91A(1) and (5), 92(1) and (2), 93(1), 96(3)(c) and (5)	the offender (each occurrence)	the debtor
s. 70(6), 70A(1), 71(3), 88(3), 91(2)(a), 91A(1)	the offender's	the debtor's
s. 70A(1) and (2), 70C(1), 70E(1), 91B(1)	an offender's	a debtor's
s. 70E(2)	An offender's	A debtor's
s. 91B(3)	The offender	The debtor
s. 101(3)(d), 101A(5)(c)(i), 101B(3)(b), 108A(6)(a), 108(4)(a)	suspend licences	enforce

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 2 Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 43

Note: The heading to the amended sections listed in the Table are to read as set out in the Table.

Table

Amended section	Section heading
s. 45	Enforcement warrant
s. 70	Determining a debtor's interest in property
s. 71	Enforcement warrant, effect of
s. 78	Debts due to debtor to be paid to Sheriff
s. 91A	Debtor may be permitted to sell or mortgage real property

Part 3 — *Equal Opportunity Act 1984* amended

44. Act amended

This Part amends the *Equal Opportunity Act 1984*.

45. Long title amended

In the long title delete “**or age,**” and insert:

age, or publication of details on the Fines Enforcement Registrar’s website,

46. Section 3 amended

In section 3(a) delete “age” and insert:

age, publication of relevant details on the Fines
Enforcement Registrar’s website

47. Section 4 amended

In section 4(1) insert in alphabetical order:

Fines Enforcement Registrar means the Registrar
appointed under the *Fines, Penalties and Infringement
Notices Enforcement Act 1994* section 7(1);
relevant details, in relation to a person, has the
meaning given in the *Fines, Penalties and Infringement
Notices Enforcement Act 1994* section 56C;

48. Section 5 amended

In section 5 delete “IVA or IVB” and insert:

IVA, IVB or IVC

49. Part IVC inserted

After Part IVB insert:

**Part IVC — Discrimination on ground of
publication of relevant details of persons on
Fines Enforcement Registrar’s website**

Division 1 — General

**67A. Discrimination on ground of publication of relevant
details on Fines Enforcement Registrar’s website**

In this Division, a person (the *discriminator*) discriminates against another person (the *aggrieved person*) on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar’s website if, on the ground of the publication under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 56D of any relevant details of the person, the discriminator —

- (a) treats the aggrieved person less favourably than, in the same circumstances or in circumstances that are not materially different, the discriminator treats or would treat a person who had never been convicted of an offence and against whom an infringement notice had never been issued; or
- (b) requires the aggrieved person to comply with a requirement or condition that is not reasonable having regard to the circumstances of the case.

Division 2 — Discrimination in work

67B. Discrimination against applicants and employees

- (1) It is unlawful for an employer to discriminate against a person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —
 - (a) in the arrangements made for the purpose of determining who should be offered employment; or
 - (b) in determining who should be offered employment; or
 - (c) in the terms or conditions on which employment is offered.

- (2) It is unlawful for an employer to discriminate against an employee on the ground of the publication of relevant details of the employee on the Fines Enforcement Registrar's website —
 - (a) in the terms or conditions of employment that the employer affords the employee; or
 - (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment; or
 - (c) by dismissing the employee; or
 - (d) by subjecting the employee to any other detriment.

67C. Discrimination against commission agents

- (1) It is unlawful for a principal to discriminate against a person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —
 - (a) in the arrangements the principal makes for the purpose of determining who should be engaged as a commission agent; or
 - (b) in determining who should be engaged as a commission agent; or
 - (c) in the terms or conditions on which the person is engaged as a commission agent.

- (2) It is unlawful for a principal to discriminate against a commission agent on the ground of the publication of relevant details of the commission agent on the Fines Enforcement Registrar's website —
 - (a) in the terms or conditions that the principal affords the commission agent as a commission agent; or
 - (b) by denying the commission agent access, or limiting the commission agent's access, to opportunities for promotion, transfer or training, or to any other benefits associated with the position as a commission agent; or
 - (c) by terminating the engagement; or
 - (d) by subjecting the commission agent to any other detriment.

67D. Discrimination against contract workers

It is unlawful for a principal to discriminate against a contract worker on the ground of the publication of relevant details of the contract worker on the Fines Enforcement Registrar's website —

- (a) in the terms or conditions on which the principal allows the contract worker to work; or
- (b) by not allowing the contract worker to work or continue to work; or
- (c) by denying the contract worker access, or limiting the contract worker's access, to any benefit associated with the work in respect of which the contract with the employer is made; or
- (d) by subjecting the contract worker to any other detriment.

67E. Professional or trade organisations etc.

- (1) This section applies to an organisation of employees and to an organisation of employers.
- (2) It is unlawful for an organisation to which this section applies or for a committee of management of such an organisation or for a member of such a committee of management to discriminate against a person who is not a member of the organisation on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —
 - (a) by refusing or failing to accept the person's application for membership; or
 - (b) in the terms or conditions on which the organisation is prepared to admit the person to membership.

- (3) It is unlawful for an organisation to which this section applies or for the committee of management of such an organisation or for a member of such a committee of management to discriminate against a person who is a member of the organisation on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —
- (a) by denying the person access, or limiting the person's access, to any benefit provided by the organisation; or
 - (b) by depriving the person of membership or varying the terms of membership; or
 - (c) by subjecting the person to any other detriment.

67F. Qualifying bodies

It is unlawful for an authority that is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to discriminate against a person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —

- (a) by refusing or failing to confer, renew or extend the authorisation or qualification; or
- (b) in the terms or conditions on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification; or
- (c) by revoking or withdrawing the authorisation or qualification or varying the terms or conditions upon which it is held.

67G. Employment agencies

It is unlawful for an employment agency to discriminate against a person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —

- (a) by refusing to provide the person with any of its services; or
- (b) in the terms or conditions on which it offers to provide the person with any of its services; or
- (c) in the manner in which it provides the person with any of its services.

Division 3 — Discrimination in other areas

67H. Goods, services and facilities

It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar's website —

- (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person; or
- (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or
- (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

67I. Accommodation

- (1) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the publication of relevant details of the other person on the Fines Enforcement Registrar's website —
 - (a) by refusing the other person's application for accommodation; or
 - (b) in the terms or conditions on which accommodation is offered to the other person; or
 - (c) by deferring the other person's application for accommodation, or according to the other person a lower order of precedence in any list of applicants for that accommodation.

- (2) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the publication of relevant details of the other person on the Fines Enforcement Registrar's website —
 - (a) by denying the other person access, or limiting the other person's access, to any benefit associated with accommodation occupied by the other person; or
 - (b) by evicting the other person from accommodation occupied by the other person; or
 - (c) by subjecting the other person to any other detriment in relation to accommodation occupied by the other person.

- (3) Nothing in this section applies to or in respect of —
- (a) the provision of accommodation in premises if —
 - (i) the person who provides or proposes to provide the accommodation or a near relative of that person resides, and intends to continue to reside, on those premises; and
 - (ii) the accommodation provided in those premises is for no more than 3 persons other than a person referred to in subparagraph (i) or near relatives of such a person;
 - or
 - (b) accommodation provided by a religious body.

50. Section 67 amended

In section 67(1)(f) delete “IVA or IVB,” and insert:

IVA, IVB or IVC,

51. Section 80 amended

In section 80:

- (a) delete “impairment or age” (first occurrence) and insert:

impairment, age or the publication of relevant details
on the Fines Enforcement Registrar’s website,

s. 52

- (b) in paragraph (b)(i) delete “impairment or age” and insert:

impairment, age or the publication of
relevant details on the Fines
Enforcement Registrar’s website

- (c) in paragraph (e) delete “impairment or age” and insert:

impairment, age or the publication of relevant
details on the Fines Enforcement Registrar’s
website

52. Section 135 amended

- (1) In section 135(1) delete “IVA or IVB.” and insert:

IVA, IVB or IVC.

- (2) In section 135(2) delete “IVA or IVB” and insert:

IVA, IVB or IVC

53. Section 137 amended

In section 137 delete “IVA and IVB” and insert:

IVA, IVB and IVC

54. Section 140 amended

In section 140(a) delete “impairment or age; and” and insert:

impairment, age or the publication of relevant
details on the Fines Enforcement Registrar’s
website; and

Part 4 — Other Acts amended

Division 1 — *Criminal Investigation (Identifying People) Act 2002* amended

55. Act amended

This Division amends the *Criminal Investigation (Identifying People) Act 2002*.

56. Section 73 amended

After section 73(1)(l) insert:

- (ma) for the purposes of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*;

Division 2 — *Electricity Corporations Act 2005* amended

57. Act amended

This Division amends the *Electricity Corporations Act 2005*.

58. Section 50A inserted

At the end of Part 3 Division 1 Subdivision 4 insert:

50A. Disclosure of information to fines Registrar

- (1) The corporation must disclose to the Registrar appointed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* the names and addresses of the persons who are supplied electricity or gas by the corporation, but not photographs or signatures of such persons.
- (2) Information disclosed under subsection (1) may be used in the performance of the Registrar's functions

under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* but not for any other purpose.

- (3) The disclosure of information under subsection (1) is to be free of charge.

Division 3 — *Mines Safety and Inspection Act 1994* amended

59. Act amended

This Division amends the *Mines Safety and Inspection Act 1994*.

60. Section 101F amended

- (1) In section 101F(2) delete “section 32 of”.
- (2) In section 101F(3) and (4) delete “section referred to” and insert:

Act referred to

61. Section 101J amended

In section 101J(3) delete “section 32 of”.

Division 4 — *Occupational Safety and Health Act 1984* amended

62. Act amended

This Division amends the *Occupational Safety and Health Act 1984*.

63. Section 55L amended

- (1) In section 55L(2) delete “section 32 of”.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 4 Other Acts amended

Division 5 Parental Support and Responsibility Act 2008 amended

s. 64

- (2) In section 55L(3) and (4) delete “section referred to” and insert:

Act referred to

64. Section 55P amended

In section 55P(3) delete “section 32 of”.

Division 5 — Parental Support and Responsibility Act 2008 amended

65. Act amended

This Division amends the *Parental Support and Responsibility Act 2008*.

66. Section 36 amended

- (1) In section 36(2) delete “suspend licences” and insert:

enforce

- (2) In section 36(4) delete “A warrant of execution” and insert:

An enforcement warrant

- (3) After section 36(6) insert:

(7) Relevant details of the person cannot be published under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 56D.

Division 6 — Rail Safety Act 2010 amended

67. Act amended

This Division amends the *Rail Safety Act 2010*.

68. Section 208 amended

- (1) In section 208(2) delete “*Fines, Penalties and Infringement Notices Enforcement Act 1994* section 32,” and insert:

Fines, Penalties and Infringement Notices Enforcement Act 1994,

- (2) In section 208(3) and (4) delete “section referred to” and insert:

Act referred to

69. Section 212 amended

In section 212(3) delete “*Fines, Penalties and Infringement Notices Enforcement Act 1994* section 32,” and insert:

Fines, Penalties and Infringement Notices Enforcement Act 1994,

Division 7 — Road Traffic Act 1974 amended

70. Act amended

This Division amends the *Road Traffic Act 1974*.

71. Section 17 amended

In section 17(2):

- (a) in paragraph (e) delete “vehicle.” and insert:

vehicle; and

- (b) after paragraph (e) insert:

- (fa) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and
- (f) the vehicle is not immobilised under an enforcement warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; and
- (g) the vehicle’s number plates have not been removed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95F; and
- (h) a vehicle licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G is not in force in respect of the vehicle; and
- (i) a vehicle licence cancellation order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J is not in force in respect of the vehicle.

72. Section 27A amended

- (1) After section 27A(1) insert:
- (2A) If a vehicle licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, suspended so long as the vehicle licence suspension order continues in force and during that period is of no effect.
- (2) In section 27A(2) delete “Subsection (1)” and insert:
- Subsections (1) and (2A)
- (3) After section 27A(3) insert:
- (4) If a vehicle licence cancellation order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, cancelled.

Division 7A — Road Traffic (Vehicles) Act 2012 amended

73. Act amended

This Division amends the *Road Traffic (Vehicles) Act 2012*.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 4 Other Acts amended

Division 7A Road Traffic (Vehicles) Act 2012 amended

s. 74

74. Section 5 amended

In section 5(3):

- (a) in paragraph (e) delete “vehicle.” and insert:

vehicle; and
- (b) after paragraph (e) insert:
 - (f) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and
 - (g) the vehicle is not immobilised under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95C; and
 - (h) the vehicle’s number plates have not been removed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95F; and
 - (i) a vehicle licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G is not in force in respect of the vehicle; and
 - (j) a vehicle licence cancellation order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J is not in force in respect of the vehicle.

75. Section 16 amended

(1) After section 16(1) insert:

(2A) If a vehicle licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, suspended so long as the vehicle licence suspension order continues in force and during that period is of no effect.

(2) In section 16(2) delete “Subsection (1) does” and insert:

Subsections (1) and (2A) do

(3) After section 16(3) insert:

(4) If a vehicle licence cancellation order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, cancelled.

76. Section 125 amended

In section 125(8) delete “section 19 or 43.” and insert:

section 19, 43, 95G or 95J.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012

Part 4 Other Acts amended

Division 8 Sentencing Act 1995 amended

s. 77

Division 8 — *Sentencing Act 1995* amended

77. Act amended

This Division amends the *Sentencing Act 1995*.

78. Section 57A amended

In section 57A(5)(b)(iii) delete “a warrant of execution” and insert:

an enforcement warrant

79. Section 57B amended

In section 57B(6) delete “section 32 of”.

=====