

WESTERN AUSTRALIA

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**ACTS AMENDMENT (FINES,  
PENALTIES AND INFRINGEMENT  
NOTICES) ACT 1994**

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**No. 92 of 1994**

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**AN ACT to amend various Acts as a consequence of the enactment of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.**

[Assented to 23 December 1994.]

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994*.

**Commencement**

2. (1) Subject to this section, this Act comes into operation on the day on which the *Fines, Penalties and Infringement Notices Enforcement Act 1994* comes into operation.

(2) Part 22 has no effect unless the *Young Offenders Act 1994* is enacted, and, if that Act receives the Royal Assent after the day on which this Act comes into operation, Part 22 comes into operation on the day on which that Act receives the Royal Assent.

**PART 2 — ACTS AMENDMENT (JURISDICTION AND  
CRIMINAL PROCEDURE) ACT 1992**

**Sections 18 to 23 repealed**

**3.** Sections 18, 19, 20, 21, 22 and 23 of the *Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992*\* are repealed.

[\* *Act No. 53 of 1992.*]

**PART 3 — BAIL ACT 1982**

**Principal Act**

4. In this Part the *Bail Act 1982\** is referred to as the principal Act.

[\* *Reprinted as at 17 October 1991.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 16.]*

**Section 49 amended**

5. Section 49 (2) and (3) of the principal Act are repealed and the following subsections are substituted —

“

(2) The *Justices Act 1902*, except section 51 and Part VIII, applies, with all necessary modifications, to a complaint and summons under this section, and any order thereon, as if they were made or issued under that Act.

(3) Without prejudice to the recovery of such an amount as a civil debt due to the Crown, any amount to be paid under an order made under this section is to be paid, and its payment may be enforced under Part 5 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless an order has been made under subsection (4).

(4) If under this section the Supreme Court or the District Court makes an order requiring the payment of money, the court may make an order under section 100 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of the amount payable.

”

**Section 52 amended**

6. Section 52 of the principal Act is amended by inserting after subsection (4) the following subsection —

“

(5) If under section 51 (6) or (7) the Supreme Court or the District Court imposes a pecuniary penalty, the court may make an order under section 100 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of the amount payable.

”

**Section 57 amended**

7. Section 57 (3) and (4) of the principal Act are repealed and the following subsections are substituted —

“

(3) Without prejudice to the recovery of such an amount as a civil debt due to the Crown, any amount to be paid under an order made under this section is to be paid, and its payment may be enforced under Part 5 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless an order has been made under subsection (4).

(4) If under this section the Supreme Court or the District Court makes an order requiring the payment of money, the court may make an order under section 100 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of the amount payable.

”

**PART 4 — COAL MINES REGULATION ACT 1946**

**Section 44 amended**

8. Section 44 (1) of the *Coal Mines Regulation Act 1946\** is repealed and the following subsection is substituted —

“

(1) The Board may make such order as it thinks fit respecting the costs and expenses of the inquiry, and any amount payable under such an order may be recovered as a judgment debt in a court of competent jurisdiction.

”

[\* *Reprinted as at 2 September 1980.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 35 and Act No. 32 of 1994.]*

**PART 5 — THE CRIMINAL CODE**

**The Code**

9. In this Part “**the Code**” means *The Criminal Code*\*.

[\* *Reprinted as at 17 December 1993 as the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Compilation Act 1913 and amended by Act No. 32 of 1994.*]

**Section 19 amended**

10. Section 19 of the Code is amended —

- (a) in paragraph (5) by deleting “upon indictment to pay a fine” and substituting the following —

“

of an indictable offence, upon indictment or upon summary conviction by a magistrate, to pay a fine (as defined in Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*)

”;

and

- (b) by inserting after paragraph (5) the following paragraph —

“

(5a) A court sentencing a person on conviction upon indictment to pay a fine or costs or compensation or sum of money may make an order under section 100 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of the amount concerned;

”.

**Sections 682 and 682A repealed and a section substituted**

11. Sections 682 and 682A of the Code are repealed and the following section is substituted —

“

**Enforcement of fines etc.**

**682.** (1) In this section —

“**court**” means the Supreme Court or the District Court;

“**default order**” means an order as to the consequences of defaulting in the payment of an amount ordered to be paid by the court;

“**fine**” has the same definition as in Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

(2) When imposing a fine or making any order in connection with a criminal cause or matter requiring the payment of money, a court is not to make an order allowing an offender time to pay or allowing the offender to pay by instalments and is not to make a default order.

(3) Subsection (2) does not affect a court’s power to make an order under section 19 (5) or (5a) or section 746A (3).

(4) A fine imposed by a court is to be paid, and its payment may be enforced, under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless an order has been made under section 19 (5) or (5a) in respect of the fine.



(5) The amount of any compensation or other sum of money (other than a fine, or a recognizance to which section 746A applies) ordered by a court to be paid by a person in connection with a criminal cause or matter may be recovered as a judgment debt in a court of competent jurisdiction, unless an order has been made under section 19 (5a) in respect of the amount.

(6) For the purposes of subsection (5), a Registrar of the court may issue a certified copy of the order of the court and that copy may be registered as a judgment in a court of competent jurisdiction.

(7) A certified copy of the order of the court is not to be issued under subsection (6) unless 28 days have elapsed since the order was made.

”

### **Section 746A amended**

12. (1) Section 746A of the Code is amended in the first paragraph by inserting before “When” the subsection designation “(1)”.

(2) Section 746A of the Code is further amended by repealing the second paragraph and substituting the following subsections —

“

(2) Without prejudice to the recovery of such an amount as a civil debt due to the Crown, the amount of a recognizance estreated under subsection (1) is to be paid, and its payment may be enforced, under Part 5 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless an order has been made under subsection (3).

(3) If under subsection (1) a recognizance is ordered by a court to be estreated, the court may

No. 92]

*Acts Amendment (Fines, Penalties and  
Infringement Notices) Act 1994*

make an order under section 100 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of the amount concerned.

”

**PART 6 — FISHERIES ACT 1905**

**Section 54 amended**

13. Section 54 of the *Fisheries Act 1905*\* is amended by inserting after "*Justices Act 1902*" the following —

“

(as enacted before the commencement of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*)

”.

[\* *Reprinted as at 15 July 1986.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 79-80 and Act No. 32 of 1994.]*

**PART 7 — INDUSTRIAL RELATIONS ACT 1979**

**Section 113 amended**

14. Section 113 (4) of the *Industrial Relations Act 1979\** is repealed and the following subsection is substituted —

“

(4) Any regulations made under this Act may provide that contravention of a regulation constitutes an offence and may provide for penalties not exceeding a fine of \$40 for offences against the regulations.

”

[\* *Reprinted as at 11 May 1994.*  
*Amended by Act No. 32 of 1994.*]

**PART 8 — INTERPRETATION ACT 1984**

**Section 67 repealed and a section substituted**

15. Section 67 of the *Interpretation Act 1984*\* is repealed and the following section is substituted —

“

**Offences and proceedings for offences**

67. (1) Offences are of 2 kinds: indictable offences and simple offences.

(2) An offence not otherwise designated is a simple offence.

(3) The procedure for dealing with indictable offences is set out in the *Justices Act 1902* and *The Criminal Code*.

(4) The procedure for dealing with simple offences, and matters that are to be dealt with summarily, is set out in the *Justices Act 1902*.

”

[\* *Reprinted as at 4 November 1992.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 104-5 and Act No. 32 of 1994.]*

**PART 9 — JUSTICES ACT 1902**

**Principal Act**

**16.** In this Part the *Justices Act 1902\** is referred to as the principal Act.

[\* *Reprinted as at 1 April 1992.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 110-11.]*

**Section 154A amended**

**17.** Section 154A of the principal Act is amended by repealing subsection (2) and substituting the following subsection —

“

(2) Without prejudice to the recovery of such an amount as a civil debt due to the Crown, the amount of a recognizance forfeited under subsection (1) is to be paid, and its payment may be enforced, under Part 5 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

”

**Sections 155 to 158 repealed and a section substituted**

**18.** Sections 155, 156, 157, and 158 of the principal Act and the heading “*Execution*” before section 155, are repealed and the following heading and section are substituted —

“

*Enforcing orders to pay money*

**Enforcement of fines etc.**

**155.** (1) In this section —

“**default order**” means an order as to the consequences of defaulting in the payment of an amount ordered to be paid by justices;

**“fine”** has the same definition as in Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

(2) When imposing a fine or making any order requiring the payment of money, justices are not to make an order allowing an offender time to pay or allowing the offender to pay by instalments and are not to make a default order.

(3) Subsection (2) does not affect a magistrate’s power to make an order under section 19 (5) of *The Criminal Code*.

(4) A fine imposed by justices is to be paid, and its payment may be enforced, under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless an order has been made under section 19 (5) of *The Criminal Code* in respect of the fine.

(5) The amount of any compensation or other sum of money (other than a fine, or a recognizance to which section 154A applies) ordered by justices to be paid by a person may be recovered as a judgment debt in a court of competent jurisdiction.

(6) For the purposes of subsection (5), a clerk of petty sessions may issue a certified copy of the order of the justices and that copy may be registered as a judgment in a court of competent jurisdiction.

(7) A certified copy of the order of the justices is not to be issued under subsection (6) unless 28 days have elapsed since the order was made.

**Sections 159 to 165A repealed and a section substituted**

**19.** Sections 159, 160, 161, 162, 163, 164, 165, and 165A of the principal Act and the headings before sections 160, 161, 162, and 163 are repealed and the following section is substituted —

“

*Enforcing other orders***Imprisonment may be ordered**

**159.** (1) If justices make an order for the doing of an act, other than an order requiring the payment of money or an order under Part VII, they may direct that if the defendant contravenes the order, the defendant is to be imprisoned for a period set by the justices.

(2) If a defendant contravenes an order made under subsection (1), the justices who made the order, or another justice, may issue a warrant of commitment accordingly.

”

**Other amendments**

**20.** The principal Act is amended as set out in the Table.

**TABLE**

- |           |   |
|-----------|---|
| s. 4      | Delete semicolon after the definition of “summary conviction” and substitute a full stop. |
|           | Delete the definition of “work and development order”.                                    |
| s. 27 (1) | Delete “execution or”.  |
| s. 27 (2) | Delete “execution or”.  |



- s. 56A After subsection (7) insert the following subsection —
- “ (8) If justices set aside the conviction, any licence suspension order made under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of any fine imposed is to be taken as having been cancelled as at the time the licence suspension order was made. ”.
- s. 136A After subsection (5) insert the following subsection —
- “ (5a) If justices set aside the decision, any licence suspension order made under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of any fine imposed by the decision is to be taken as having been cancelled as at the time the application under subsection (1) was made. ”.
- s.144 Repeal the section.
- s. 146 (2) Delete “144 (4) or”.
- s. 154 Repeal the section.
- s. 167 Repeal the section.
- s. 168 Repeal the section and the heading “*Duty of clerk of petty sessions*” before it.
- Part VIAA Repeal the Part.
- Part VIBA Repeal the Part.
- Part VIA Repeal the Part.
- s. 194 (2) Repeal the subsection and substitute the following subsection —
- “ (2) After notice is received by the clerk of petty sessions that leave to appeal has been

*Acts Amendment (Fines, Penalties and  
Infringement Notices) Act 1994*

granted in respect of a decision, no warrant or order to enforce the decision shall be issued, and no action to enforce the decision shall be taken, under this Act or the *Fines, Penalties and Infringement Notices Enforcement Act 1994* until the appeal is disposed of. ”.

s. 223 Delete “of execution or”.

s. 225 Delete “of execution or”.

Eighth Schedule Repeal the Schedule.

**PART 10 — LAND ACT 1933**

**Section 164 amended**

**21.** Section 164 (6) of the *Land Act 1933*\* is repealed and the following subsection is substituted —

“  
    (6) An amount ordered to be paid under subsection (4) may be recovered as a judgment debt in a court of competent jurisdiction.

”.

[\* *Reprinted as at 2 May 1985.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 113-4 and Act No. 6 of 1994.]*

**PART 11 — LIQUOR LICENSING ACT 1988**

**Section 19 amended**

**22.** Section 19 (2) of the *Liquor Licensing Act 1988*\* is repealed and the following subsection is substituted —

“

(2) If under this Act a monetary penalty is imposed or the Court makes an order for the payment of costs, the amount of the penalty or the costs is to be paid, and its payment may be enforced, under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* as if the amount were a fine, but under that Act neither a work and development order nor a warrant of commitment may be issued in respect of such an amount.

”.

[\* *Act No. 54 of 1988.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 121 and Act No. 32 of 1994.]*

**PART 12 — LITTER ACT 1979**

**Section 29 amended**

**23.** Section 29 (2) of the *Litter Act 1979*\* is repealed and the following subsection is substituted —

“

(2) An amount ordered to be paid under subsection (1) may be recovered as a judgment debt in a court of competent jurisdiction.

”.

[\* *Reprinted as at 20 July 1983.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 122 and Act No. 32 of 1994.]*

**PART 13 — LOCAL GOVERNMENT ACT 1960**

**Section 565 amended**

**24.** Section 565 (1) (b) of the *Local Government Act 1960\** is deleted.

[\* *Reprinted as at 24 June 1983.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 123-5  
and Acts Nos. 40 of 1993 and 6 and 27 of 1994.]*

**PART 14 — MEDICAL ACT 1894**

**Section 22 repealed and a section substituted**

**25.** Section 22 of the *Medical Act 1894*\* is repealed and the following section is substituted —

“

**Proceedings for offences etc.**

**22.** (1) Proceedings for an offence against this Act or the rules shall be dealt with summarily in a court of summary jurisdiction.

(2) A fine imposed by the Board may be recovered as a judgment debt in a court of competent jurisdiction and for that purpose a certified copy of the Board's order imposing the fine may be registered as a judgment in such a court.

(3) All fines, fees and penalties paid or recovered under this Act or the rules shall be credited to the Board.

”

[\* *Reprinted as at 10 March 1988.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 132.]*

**PART 15 — MISUSE OF DRUGS ACT 1981**

**Section 36 repealed**

**26.** Section 36 of the *Misuse of Drugs Act 1981*\* is repealed.

[\* *Act No. 66 of 1981.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 141 and  
Acts Nos. 12 and 32 of 1994 and Gazette of 22 March  
1994.]*



**PART 16 — OFFENDERS COMMUNITY CORRECTIONS  
ACT 1963**

**Principal Act**

27. In this Part the *Offenders Community Corrections Act 1963*\* is referred to as the principal Act.

[\* *Reprinted as at 10 October 1991.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 148-9  
and Act No. 32 of 1994.]*

**Section 4 amended**

28. Section 4 of the principal Act is amended —

(a) in the definition of “community corrections centre order” by deleting paragraph (c) and substituting the following paragraph —

“ (c) a work and development order; ”; and

(b) by inserting after the definition of “volunteer” the following definition —

“

**“work and development order”** means a work and development order issued under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*;

”.

**Section 5B amended**

29. Section 5B of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph —

“

- (b) any power or duty under Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, other than this power of delegation.

”

**Section 5ZF amended**

30. Section 5ZF (3) of the principal Act is repealed and the following subsection is substituted —

“

- (3) Notwithstanding paragraph (d) of subsection (1), if an offender is subject to a work and development order, the offender shall devote to the programmes referred to in that paragraph the number of hours required under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

”

**Section 5ZG amended**

31. Section 5ZG of the principal Act is amended in paragraph (a) by deleting “issued under Part VIAA of the *Justices Act 1902*”.

**PART 17 — POLICE ACT 1892**

**Section 21 amended**

**32.** Section 21 of the *Police Act 1892*\* is amended by deleting “And the amount of any recognizance so forfeited may, in addition to the manner prescribed by the 25th Vic., No. 5, be levied by distress and sale of goods and chattels of the person bound thereby, and may be otherwise recovered and enforced as in case of an ordinary fine or penalty imposed by a Justice.”.

[\* *Reprinted as at 24 April 1992.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 164-5  
and Act No. 2 of 1994.]*

**PART 18 — PRISONS ACT 1981**

**Section 29 amended**

**33.** Section 29 (3) of the *Prisons Act 1981*\* is repealed and the following subsection is substituted —

“

(3) This section —

- (a) applies to a prisoner who is sentenced to a finite term of imprisonment of not less than 3 days; and
- (b) does not apply to a prisoner in respect of a penalty of confinement imposed under Part VII.

”.

[\* *Reprinted as at 9 July 1992.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 168-9  
and Act No. 32 of 1994.]*

**PART 19 — ROAD TRAFFIC ACT 1974**

**Principal Act**

**34.** In this Part the *Road Traffic Act 1974\** is referred to as the principal Act.

[\* *Reprinted as at 4 April 1991.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, pp. 182-3  
and Act No. 13 of 1994.]*

**Section 27A inserted**

**35.** After section 27 of the principal Act the following section is inserted —

“

**Effect of disqualification**

**27A.** (1) Where a licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of a person, a licence held by that person in respect of a vehicle specified in the order or in respect of any vehicle (as the order directs), shall by force of this section be suspended so long as the licence suspension order continues in force and during that period shall be of no effect.

(2) Subsection (1) shall not operate to extend the period for which a vehicle licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be issued or renewed.

(3) A vehicle licence obtained by a person who is disqualified from holding or obtaining a vehicle licence shall be of no effect.

”

**Section 51 amended**

**36.** (1) Section 51 of the principal Act is amended by inserting after subsection (3) the following subsection —

“

(3a) Where the holder of a driver's licence issued on probation is disqualified from holding or obtaining a driver's licence by a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, then that licence is, by operation of this subsection, cancelled.

”.

(2) Section 51 (4) of the principal Act is amended by deleting “or (3)” and substituting the following —

“ , (3) or (3a) ”.

**Section 75 amended**

**37.** Section 75 (2) of the principal Act is amended —

(a) by deleting “or” after paragraph (c);

(b) by deleting the comma after paragraph (d) and substituting the following —

“ ; or ”; and

(c) by inserting after paragraph (d) the following paragraph —

“

(e) by a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*,

”.

**Section 76 amended**

**38.** Section 76 of the principal Act is amended by inserting after subsection (1) the following subsection —

“

(1aa) If under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* a licence suspension order is in force in respect of a person, no application under subsection (1) shall be made to, or heard by, any court in respect of that person.

”.

**Section 102 amended**

**39.** (1) Section 102 (7) of the principal Act is amended by inserting after “payment of” the following —

“ the whole or a part of ”.

(2) Section 102 of the principal Act is amended by inserting after subsection (7) the following subsection —

“

(7a) Subsection (7) applies even if the payment is made by means of a dishonoured cheque.

”.

**Section 111 amended**

**40.** Section 111 (2) of the principal Act is amended by inserting after paragraph (h) the following paragraph —

“

(i) prescribing a minimum age at which an individual may apply for the issue of a vehicle licence and providing for an applicant for a vehicle licence to provide proof of age and identity.

”.

**PART 20 — ROYAL COMMISSIONS ACT 1968**

**Sections 35 to 37 repealed**

41. Sections 35, 36 and 37 of the *Royal Commissions Act 1968\** are repealed.

[\* *Act No. 65 of 1968.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 186.]*



**PART 21 — WESTERN AUSTRALIAN MARINE ACT 1982**

**Section 62 amended**

**42.** Section 62 (4) of the *Western Australian Marine Act 1982*\* is repealed and the following subsection is substituted —

“

(4) A court convicting a person of an offence under subsection (3) may fix the amount of expenses to be paid and that amount may be recovered as if it were a fine imposed by the court, but otherwise the expenses may be sued for and recovered in a court of competent jurisdiction.

”

[\* *Act No. 55 of 1982.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 227 and Act No. 32 of 1994.]*

**PART 22 — YOUNG OFFENDERS ACT 1994**

**Principal Act**

**43.** In this Part the *Young Offenders Act 1994\** is referred to as the principal Act.

**Sections 60 and 61 repealed**

**44.** Sections 60 and 61 of the principal Act are repealed.

**Sections 63, 64 and 65 repealed and sections substituted**

**45.** Sections 63, 64 and 65 of the principal Act are repealed and the following sections are substituted —

“

**Interpretation in sections 64 to 65C**

**63.** In this section and in sections 64 to 65C —

“**community work order**” has the meaning given by section 65B;

“**detention order**” has the meaning given by section 65C;

“**fine**” has the same definition as in Part 4 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

**Enforcing payment by young person who has reached 18**

**64.** If a young person has reached the age of 18 years when —

- (a) he or she is fined for committing an offence;
- (b) a bail undertaking entered into by him or her under the *Bail Act 1982* is forfeited; or
- (c) a recognizance, entered into by him or her under this Act or any other written law in proceedings for an offence is forfeited,

payment of the amount concerned is to be made and may be enforced under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

**Enforcing payment of fine by young person who has not reached 18**

**65.** (1) This section applies if a young person has not reached the age of 18 years when —

- (a) he or she is fined for committing an offence;
- (b) a bail undertaking entered into by him or her under the *Bail Act 1982* is forfeited; or
- (c) a recognizance, entered into by him or her under this Act or any other written law in proceedings for an offence is forfeited.

(2) When fining or forfeiting the undertaking or recognizance of the young person, the court is to either —

- (a) specify the time within which the amount concerned is to be paid; or
- (b) make an order that the amount concerned is to be paid in instalments.

(3) If the young person defaults in the payment of the amount concerned or of any instalment of the amount concerned, the court —

- (a) if the young person has reached the age of 18 years, must register the fine or the amount of the forfeited undertaking or recognizance under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, unless a community work order or a detention order has been made under section 65A in respect of the default or unless sufficient cause to the contrary is shown; or
- (b) if the young person has not reached the age of 18 years, must issue the young person with a notice to attend court requiring him or her to appear before the court because of the default, unless sufficient cause to the contrary is shown.

(4) If, after a fine or the amount of a forfeited undertaking or recognizance is registered under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, the amount concerned or any part of it is paid, the court is to notify the Registry immediately.

(5) After a fine or the amount of a forfeited undertaking or recognizance is registered under the

*Fines, Penalties and Infringement Notices Enforcement Act 1994*, the court cannot make any further order in respect of the payment and the enforcement of the payment of the fine or the forfeited undertaking or recognizance.

### **Court's powers to deal with defaulter**

**65A.** (1) If a notice to attend court is issued under section 65 (3) to a young person (“**the defaulter**”) and the defaulter appears before the court, the court may invite the defaulter to consent to the making of a community work order in respect of the unpaid amount concerned.

(2) If the defaulter consents to the making of a community work order the court may make one.

(3) If the defaulter does not consent to the making of a community work order, the court, unless sufficient cause to the contrary is shown, is required to make a detention order —

- (a) to have effect immediately; or
- (b) to have effect if the defaulter is still in default at a specified later date.

(4) The chief executive officer or another officer of the Department may be present at, and is entitled to be heard in, the proceedings to show cause why a detention order should not be made.

(5) If under subsection (3) the court declines to make a detention order the defaulter ceases to be liable to be imprisoned in respect of the failure to pay the amount concerned and neither the fine nor the amount of the forfeited undertaking or recognizance

can be registered under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

### **Community work order**

**65B.** (1) A community work order is an order having the same effect as a youth community based order imposing community work conditions.

(2) The provisions of this Act with the modifications set out in Schedule 3, apply to a community work order.

(3) If the defaulter fully complies with an order under subsection (1) or if the court discharges such an order, the obligation to pay the amount concerned is satisfied.

### **Detention order**

**65C.** (1) A detention order is an order that the defaulter be detained in a detention centre for failing to pay the amount concerned.

(2) The period of detention is to be calculated under the regulations by reference to the unpaid amount of the amount concerned.

(3) If the court makes a detention order it is required to issue a warrant of commitment accordingly.

(4) The period of detention under such a warrant of commitment is to be served concurrently with any other term or period of detention or imprisonment that the defaulter is serving or has to serve.

(5) Service of the period of detention under such a warrant of commitment discharges the defaulter from the liability to pay the amount concerned.

”.

### **Schedule 3 amended**

46. Schedule 3 to the principal Act is amended by repealing clauses 3, 4 and 5 and substituting the following clauses:

“

#### **Duration of order**

3. The order remains in force until —

- (a) every condition imposed by it is fulfilled;
- (b) it is discharged or cancelled by the court; or
- (c) the obligation to make the payment in respect of which the order was made is otherwise satisfied.

#### **Powers of court in dealing with breach**

4. If the court decides to cancel the order, it can only make a detention order under section 65C in respect of the defaulter and issue a warrant of commitment accordingly.

#### **Effect of partially performing work ordered in default of payment**

5. (1) If the defaulter satisfactorily performs work under the order for a number of hours less than that required under the order, the amount required to be paid in full satisfaction of the obligation to make the payment is reduced by the percentage described in subclause (2).

(2) The percentage reduction is the percentage that the number of whole hours of work satisfactorily performed represents of the number of hours of work required by the order.

”.

**PART 23 — REPEALS**

**Ordinance repealed**

47. The *Recognizance (Forfeiture) Ordinance 1861* is repealed.