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Fines, Penalties and Infringement Notices Enforcement Act 1994

**Fines, Penalties and Infringement Notices
Enforcement Amendment Regulations
(No. 3) 2013**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Fines, Penalties and Infringement Notices Enforcement Amendment Regulations (No. 3) 2013*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette* (**gazettal day**);
- (b) regulation 13 — on the day after gazettal day;
- (c) the rest of the regulations — on the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* section 4 comes into operation.

3. Regulations amended

These regulations amend the *Fines, Penalties and Infringement Notices Enforcement Regulations 1994*.

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4. Regulation 3AA inserted

After regulation 3 insert:

3AA. Amount payable under Act s. 22(5)(c)

- (1) In this regulation —
GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1.
- (2) For the purposes of section 22(5)(c), the alleged offender is to be paid —
 - (a) an amount calculated in accordance with subregulation (3); and
 - (b) any amount paid or required to be paid by the alleged offender under the *Road Traffic (Charges and Fees) Regulations 2006* in connection with the issue of a new vehicle licence in respect of the vehicle, including the following —
 - (i) any examination fee under regulation 23 of those regulations;
 - (ii) any recording fee under regulation 25 of those regulations;
 - (iii) any fee for the issue of number plates under regulation 30 of those regulations;and
 - (c) any amount paid or required to be paid by the alleged offender in connection with the issue of an unlicensed vehicle permit for the vehicle under the *Road Traffic (Licensing) Regulations 1975* regulation 11, where the permit is issued for the purpose of enabling the

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vehicle to be driven to a location for an examination under those regulations or for repairs; and

- (d) if the alleged offender produces to the Registrar documentary evidence of any expenses of the alleged offender for travel, or vehicle towing or lifting, that resulted from the issue of the vehicle licence cancellation order — an amount that the Registrar considers appropriate to compensate the alleged offender for those expenses; and
 - (e) if the alleged offender produces to the Registrar documentary evidence of any loss of earnings of the alleged offender that resulted from the issue of the vehicle licence cancellation order and that could not reasonably have been avoided by the alleged offender — an amount that the Registrar considers appropriate to compensate the alleged offender for the loss of earnings.
- (3) For the purposes of subregulation (2)(a), the amount is to be calculated in accordance with the following formula —

$$\frac{\text{licence cost}}{\text{total days}} \times \text{remaining days}$$

where —

licence cost is the total of —

- (a) the vehicle licence charge paid for the vehicle licence in accordance with the *Road Traffic (Charges and Fees) Regulations 2006* (taking into account any exemption,

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reduction, concession or refund applied under those regulations); and

- (b) the insurance premium for the contract of insurance with respect to the vehicle as required by the *Motor Vehicle (Third Party Insurance) Act 1943* section 4 (including GST);

total days is the total number of days in the period for which the vehicle licence was issued;

remaining days is the number of days that were remaining in the period for which the vehicle licence was issued when the vehicle licence cancellation order was made (including the day on which the vehicle licence cancellation order was made).

5. Regulation 3A amended

In regulation 3A delete “CEO.” and insert:

Registrar.

6. Regulation 6 amended

In regulation 6(2) delete “section 33(2), 34(2) or 35(1)” and insert:

section 33(3), 34(3) or 35(1)

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7. Regulation 6BA amended

In regulation 6BA delete “CEO.” and insert:

Registrar.

8. Regulation 8 amended

In regulation 8 delete “offender” (each occurrence) and insert:

debtor

9. Regulation 8A amended

(1) In regulation 8A(1) delete “suspend licences” and insert:

enforce

(2) After regulation 8A(1) insert:

(2A) If on an application by a person under section 101AA the Magistrates Court makes an order cancelling the enforcement warrant concerned, the Registrar may again take proceedings under Part 3 of the Act to enforce the infringement notice that gave rise to that enforcement warrant, such proceedings to be commenced by issuing a notice of intention to enforce under section 18.

(3) In regulation 8A(2) delete “suspend licences” and insert:

enforce

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10. Regulation 8B amended

- (1) In regulation 8B(3) delete “suspend licences” (each occurrence) and insert:

enforce

- (2) In regulation 8B(4) delete “suspend licences” and insert:

enforce

- (3) In regulation 8B(5):

- (a) delete “a warrant of execution” and insert:

an enforcement warrant

- (b) delete “suspend licences” and insert:

enforce

- (4) In regulation 8B(6) delete “suspend licences” and insert:

enforce

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11. Regulation 10 replaced

Delete regulation 10 and insert:

10. Exemptions from fees (Act Part 3)

The prosecuting authorities specified in the Table are exempted from payment of the fee for registering an infringement notice under Part 3 of the Act.

Table

1.	Commissioner of Police
2.	Department of Agriculture and Food
3.	Department of the Attorney General
4.	Department of Commerce
5.	Department of Environment Regulation
6.	Department of Fisheries
7.	Department of Health
8.	Department of Parks and Wildlife
9.	Department of Racing, Gaming and Liquor
10.	Department of Transport
11.	Department of Water
12.	Gaming and Wagering Commission of Western Australia
13.	Perth Market Authority

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14.	Public Transport Authority of Western Australia
15.	Rottnest Island Authority
16.	The Queen Elizabeth II Medical Centre Trust
17.	Water Corporation
18.	Western Australian Electoral Commission
19.	Zoological Parks Authority

12. Regulation 11 amended

In regulation 11 delete “money order or credit card.” and insert:

money order or credit card, by direct debit from a bank account or credit card, or by using a bill payment system approved by the Registrar.

13. Schedule 1 amended

In Schedule 1 insert in alphabetical order:

Biosecurity and Agriculture Management Act 2007

Mining Rehabilitation Fund Act 2012

Water Services Act 2012

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14. Schedule 2 amended

(1) In Schedule 2 Division 1 delete item 4 and insert:

- | | | |
|----|---|----------|
| 4. | Fee for issuing a notice of intention to enforce | \$28.50 |
| | (To be imposed when a licence suspension order is made
or when an enforcement warrant is issued, but not twice.) | |
| 5. | Fee for issuing an enforcement warrant | \$134.00 |
| | (To be imposed when the warrant is issued.) | |

(2) In Schedule 2 Division 2 delete items 1 and 2 and insert:

- | | | |
|----|---|----------|
| 1. | Fee for issuing a notice of intention to enforce..... | \$28.50 |
| | (To be imposed when a licence suspension order is made
or when an enforcement warrant is issued, but not twice.) | |
| 2. | Fee for issuing an enforcement warrant | \$134.00 |
| | (To be imposed when the warrant is issued.) | |

(3) In Schedule 2 Division 3 item 13 delete “a warrant of execution”
and insert:

an enforcement warrant

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15. Schedule 3 Forms 1 and 2 replaced

Delete Schedule 3 Forms 1 and 2 and insert:

1. Notice of withdrawal for the purposes of Act s. 22

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Section 22]

NOTICE OF WITHDRAWAL OF PROCEEDINGS UNDER PART 3

To:

Alleged offender

Address

.....

.....

Copy to: Registrar of Fines Enforcement Registry

Details of infringement notice and alleged offence

Prosecuting authority:

Number of notice:

Date of issue: Time of issue:

Alleged offence:

.....

.....

Fines Enforcement Registry details

FER case no.:

Take notice that the above prosecuting authority hereby withdraws proceedings under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 22 in relation to the infringement notice issued for the above offence.

.....
Prosecuting officer

.....
Date

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**2. Enforcement warrant for the purposes of Act s. 21A and 45
(and Part 5)**

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Sections 21A and 45 and Part 5]

Magistrates Court
Fines Enforcement Registry

Warrant no.
ACN.
Case no.

ENFORCEMENT WARRANT

To: The Sheriff of Western Australia

Debtor	Name:	
	Address:	
	Date of Birth:	
	MDL no.:	MVL no.:
Case details [Complete relevant details only]	For enforcement warrant issued under s. 21A	For enforcement warrant issued under s. 45
	Prosecuting authority:	Court:
	Infringement notice no.:	Nature of court order:
	Alleged offence:	Date of court order:
	Place of alleged offence:	Charge no.:
	Date of alleged offence:	Offence: Date of offence:
Amount owed	Modified penalty OR fine/forfeited amount:	
	Costs:	+
	Enforcement fees under Part 3 or 4:	+
	Sub-total:	=
	Less amount paid:	-
	AMOUNT OWED:	=

The above infringement notice or court order has been registered with the Fines Enforcement Registry for enforcement. As a result, the debtor is required to pay the AMOUNT OWED, which to date is unpaid.

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You are authorised by this warrant to do the following: affix a warning notice to any vehicle licensed in the name of the debtor, immobilise any vehicle licensed in the name of the debtor, remove number plates from the any vehicle licensed in the name of the debtor, seize and sell so much of the debtor's personal property and land as is necessary to recover the amount owed and enforcement fees in connection with the execution of this warrant, enter places for the purposes of exercising those powers.

This warrant must be executed in accordance with the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

.....
REGISTRAR

.....
DATE

16. Schedule 3 Form 4 amended

- (1) In Schedule 3 in the heading to Form 4 delete “**Warrant of execution**” and insert:

Enforcement warrant

- (2) In Schedule 3 Form 4 delete “**WARRANT OF EXECUTION**” and insert:

ENFORCEMENT WARRANT

17. Schedule 3 Form 6 deleted

Delete Schedule 3 Form 6.

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18. Schedule 3 Forms 8 and 9 replaced

Delete Schedule 3 Forms 8 and 9 and insert:

8. Certificate under Act s. 101C(1) (Part 3 proceedings)

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Section 101C(1)]

CERTIFICATE AS TO LICENCE SUSPENSION ORDER

Alleged offender:

Address:

In relation to this alleged offender the following matters are certified as being true and correct:

[Strike out any that do not apply.]

1. On *[date]* an infringement notice was issued by *[prosecuting authority]* to the alleged offender for the alleged offence of *[description of alleged offence]*.
The modified penalty on the infringement notice is *[\$]*.
2. On *[date]* the infringement notice was registered under Part 3 of the Act with the Fines Enforcement Registry for enforcement and was allocated case number *[no.]*.
3. An order to pay or elect was issued under section 17 of the Act and was served on the alleged offender by *[details of service]*.
4. A notice of intention to enforce was issued under section 18 of the Act and was served on the alleged offender by *[details of service]*.
5. A licence suspension order suspending the alleged offender's:
 driver's licence number *[no.]*
 vehicle licence for the vehicle registered number *[no.]*
was made at *[time]* on *[date]* under section 19 of the Act.

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6. A notice confirming licence suspension was issued under section 19 of the Act and was served on the alleged offender by [*details of service*].
7. As at the time of issuing this certificate the licence suspension order has not been cancelled.

OR

The licence suspension order was cancelled at [*time*] on [*date*].

Date of this certificate:

Time:

[*Signature*]

REGISTRAR

9. Certificate under Act s. 101C(1) (Part 4 proceedings)

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Section 101C(1)]

CERTIFICATE AS TO LICENCE SUSPENSION ORDER

Offender:

Address:

In relation to this offender the following matters are certified as being true and correct:

[*Strike out any that do not apply.*]

1. On [*date*] the [*court*] at [*place*] imposed a fine on the offender for the offence of [*description of offence*].
The amount of the fine (as defined in section 28(1) of the Act) is [*\$*].
2. On [*date*] the fine was registered under Part 4 of the Act with the Fines Enforcement Registry for enforcement and was allocated case number [*no.*].
3. A notice of intention to enforce was issued under section 42 of the Act and was served on the offender by [*details of service*].

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4. A licence suspension order suspending the offender's:
- driver's licence number [*no.*]
 - vehicle licence for the vehicle registered number [*no.*]
- was made at [*time*] on [*date*] under section 43 of the Act.
5. A notice confirming licence suspension was issued under section 43 of the Act and was served on the offender by [*details of service*].
6. As at the time of issuing this certificate the licence suspension order has not been cancelled.

OR

The licence suspension order was cancelled at [*time*] on [*date*].

Date of this certificate:

Time:

[*Signature*]

REGISTRAR

10. Certificate under Act s. 101C(2A) (Part 3 proceedings)

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Section 101C(2A)]

**CERTIFICATE AS TO VEHICLE LICENCE SUSPENSION
ORDER/ VEHICLE LICENCE CANCELLATION ORDER**

Alleged offender:

Address:

In relation to this alleged offender the following matters are certified as being true and correct:

[*Strike out any that do not apply.*]

1. On [*date*] an infringement notice was issued by [*prosecuting authority*] to the alleged offender for the alleged offence of [*description of alleged offence*].

The modified penalty on the infringement notice is [\$].

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2. On [*date*] the infringement notice was registered under Part 3 of the Act with the Fines Enforcement Registry for enforcement and was allocated case number [*no.*].
3. A vehicle licence suspension order suspending the alleged offender's vehicle licence for the vehicle registered number [*no.*] was made on [*date*] under section 95G of the Act and took effect at [*time*] on that day. A notice confirming that the vehicle licence was suspended and that the alleged offender was disqualified from holding or obtaining a vehicle licence was affixed to the vehicle.
4. As at the time of issuing this certificate the vehicle licence suspension order has not been cancelled.

OR

The vehicle licence suspension order was cancelled at [*time*] on [*date*].

5. A vehicle licence cancellation order cancelling the alleged offender's vehicle licence for the vehicle registered number [*no.*], and disqualifying the alleged offender from holding or obtaining a vehicle licence for that vehicle, was made under section 95J of the Act on [*date*] at [*time*].
6. A copy of the vehicle licence cancellation order was served on the alleged offender by [*details of service*].
7. As at the time of issuing this certificate the vehicle licence cancellation order has not been cancelled.

OR

The vehicle licence cancellation order was cancelled to the extent that it disqualifies the alleged offender from holding or obtaining a vehicle licence at [*time*] on [*date*].

Date of this certificate:

Time:

[*Signature*]

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11. Certificate under Act s. 101C(2A) (Part 4 proceedings)

Fines, Penalties and Infringement Notices Enforcement Act 1994
[Section 101C(2A)]

**CERTIFICATE AS TO VEHICLE LICENCE SUSPENSION
ORDER/ VEHICLE LICENCE CANCELLATION ORDER**

Offender:

Address:

In relation to this offender the following matters are certified as being true and correct:

[*Strike out any that do not apply.*]

1. On [date] the [court] at [place] imposed a fine on the offender for the offence of [description of offence].

The amount of the fine (as defined in section 28(1) of the Act) is [\$].

2. On [date] the fine was registered under Part 4 of the Act with the Fines Enforcement Registry for enforcement and was allocated case number [no.].

3. A vehicle licence suspension order suspending the offender's vehicle licence for the vehicle registered number [no.] was made on [date] under section 95G of the Act and took effect at [time] on that day. A notice confirming that the vehicle licence was suspended and that the offender was disqualified from holding or obtaining a vehicle licence was affixed to the vehicle.

4. As at the time of issuing this certificate the vehicle licence suspension order has not been cancelled.

OR

The vehicle licence suspension order was cancelled at [time] on [date].

5. A vehicle licence cancellation order cancelling the alleged offender's vehicle licence for the vehicle registered number [no.], and disqualifying the offender from holding or obtaining a vehicle

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licence for that vehicle, was made under section 95J of the Act on
[*date*] at [*time*].

6. A copy of the vehicle licence cancellation order was served on the offender by [*details of service*].
7. As at the time of issuing this certificate the vehicle licence cancellation order has not been cancelled.

OR

The vehicle licence cancellation order was cancelled to the extent that it disqualifies the offender from holding or obtaining a vehicle licence at [*time*] on [*date*].

Date of this certificate:

Time:

[*Signature*]

SHERIFF

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.
