

Western Australia

**Criminal Code Amendment (Infringement
Notices) Act 2011**

As at 02 May 2011

No. 10 of 2011

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Criminal Code Amendment (Infringement Notices) Act 2011

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Criminal Code Amendment (Infringement Notices) Act 2011

No. 10 of 2011

An Act to amend *The Criminal Code*.

[Assented to 2 May 2011]

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *Criminal Code Amendment (Infringement Notices) Act 2011*.

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.

3. *The Criminal Code* amended

This Act amends *The Criminal Code*.

4. Chapter LXXIII inserted

At the beginning of Part VIII insert:

Chapter LXXIII — Infringement notices

720. Term used: CP Act

In this Chapter —

CP Act means the *Criminal Procedure Act 2004*.

721. Regulations to allow infringement notices to be issued for Code offences

- (1) This Code is taken to be a prescribed Act for the purposes of the CP Act Part 2.
- (2) The Governor may make regulations under this Code prescribing all matters that may or must be prescribed under the CP Act Part 2 to enable the CP Act Part 2 to apply to and in relation to offences under this Code.

- (3) Regulations made under subsection (2) —
 - (a) may, despite the CP Act section 5(2), prescribe any offence under this Code to be a prescribed offence for Part 2 of the CP Act; and
 - (b) may prescribe classes of person to whom an infringement notice cannot be issued for an alleged offence under this Code; and
 - (c) may prescribe circumstances in which an infringement notice cannot be issued for an alleged offence under this Code.

722. Alleged offenders taken to be charged suspects for purposes of *Criminal Investigation (Identifying People) Act 2002*

If under the CP Act an infringement notice is issued to an alleged offender for an alleged offence under this Code, then —

- (a) for the purposes of the *Criminal Investigation (Identifying People) Act 2002* Part 7 and section 67 the alleged offender is taken —
 - (i) to be a charged suspect; and
 - (ii) to have been charged with the alleged offence;and
- (b) without limiting the operation of section 67 of that Act, identifying information obtained under Part 7 of that Act from the alleged offender must be destroyed if —
 - (i) the alleged offender pays the modified penalty prescribed for the offence; and
 - (ii) destruction is requested under section 69 of that Act by or on behalf of the alleged offender;and

- (c) that Act, with any necessary changes, applies accordingly.

723. Monitoring of Chapter by Ombudsman

- (1) For the period of 12 months after the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the provisions of this Chapter and the regulations made under this Chapter and the *Criminal Investigation (Identifying People) Act 2002* Part 7 and section 67.
- (2) The scrutiny referred to in subsection (1) is to include review of the impact of the operation of the provisions referred to in that subsection on Aboriginal and Torres Strait Islander communities.
- (3) For that purpose, the Ombudsman may require the Commissioner of Police or any public authority to provide information about police or the public authority's participation in the operation of the provisions referred to in subsection (1).
- (4) The Ombudsman must, as soon as practicable after the expiration of that 12 month period, prepare a report on the Ombudsman's work and activities under this section and furnish a copy of the report to the Minister for Police and the Commissioner of Police.
- (5) The Ombudsman may identify, and include recommendations in the report to be considered by the Minister about, amendments that might appropriately be made to this Act with respect to the operation of the provisions referred to in subsection (1).
- (6) The Minister is to lay (or cause to be laid) a copy of the report furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.

