



Western Australia

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020

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Western Australia

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020

No. 25 of 2020

An Act to amend —

- **the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; and**
 - **the *Sentence Administration Act 2003*; and**
 - **the *Sentencing Act 1995*,**
- and to make consequential amendments to other Acts.**

[Assented to 19 June 2020]

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 2020*.

2. Commencement

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 — on the day after assent day, but only the following provisions —
 - (i) Divisions 1 and 2;
 - (ii) Division 3 (but only section 87);
 - (iii) Division 4 (but only section 103);
- (c) sections 9 to 86, 88 and 89 and Part 3 — on a day fixed by proclamation;
- (d) the rest of the Act — on a day fixed by proclamation that is later than the day fixed under paragraph (c).

(2) However, if a provision of this Act does not come into operation before the end of the period of 10 years beginning on the assent day, the provision is repealed on the day after that period ends.

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

Division 1 — Act amended

3. Act amended

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

**Division 2 — Amendments relating to warrants of commitment
issued by Registrar and debt redirection notices**

4. Section 53 amended

At the end of section 53(1) insert:

Note for this subsection:

Under section 118(1), the Registrar cannot issue a warrant of commitment under this subsection on or after the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* Part 2 Division 2 comes into operation unless the offender is already serving a period of imprisonment.

5. Section 55D amended

At end of section 55D(1) insert:

Note for this subsection:

Under section 118(1), the Registrar cannot issue a warrant of commitment under this subsection on or after the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* Part 2 Division 2 comes into operation unless the offender is already serving a period of imprisonment.

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

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6. Section 78 amended

After section 78(3) insert:

- (4) The Sheriff must not serve a notice under subsection (1) in relation to —
 - (a) compensation that is or may become payable under the *Criminal Injuries Compensation Act 2003*; or
 - (b) money of a kind prescribed by the regulations.

7. Part 9 Division 1 heading inserted

At the beginning of Part 9 insert:

Division 1 — Provisions for *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012*

8. Part 9 Division 2 inserted

At the end of Part 9 insert:

Division 2 — Provisions for *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020*

115. Terms used

In this Division —

first commencement day means the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* Part 2 Division 2 comes into operation under section 2(1)(b) of that Act;

former Act means this Act as in force immediately before the second commencement day;

period of concurrent imprisonment, in relation to a warrant of commitment issued or to be issued in relation to an offender under this Act, means any period or term of imprisonment the offender is or would be serving concurrently with imprisonment under the warrant of commitment (other than a period of imprisonment under another warrant of commitment issued under this Act);

second commencement day means the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* sections 9 to 86, 88 and 89 come into operation under section 2(1)(c) of that Act;

transitional period means the period beginning on the first commencement day and ending immediately before the second commencement day.

116. Offender not yet arrested under warrant of commitment issued before first commencement day

- (1) This section applies if —
 - (a) a warrant of commitment has been issued under this Act before the first commencement day in relation to an offender and a fine; and
 - (b) immediately before the first commencement day, the offender has not been arrested under the warrant.
- (2) The warrant of commitment is cancelled on the first commencement day.
- (3) The cancellation of a warrant of commitment in relation to an offender and a fine under this section does not prevent the Registrar from taking any other

enforcement action under Part 4 in relation to the
offender and the fine.

**117. Offender in custody under warrant of commitment
issued before first commencement day**

- (1) This section applies if —
 - (a) 1 or more warrants of commitment (the *relevant warrants*) have been issued under this Act before the first commencement day in relation to an offender and 1 or more fines (the *relevant fines*); and
 - (b) immediately before the first commencement day, the offender is imprisoned under the relevant warrants (whether or not the offender is serving 1 or more periods of concurrent imprisonment).
- (2) If immediately before the first commencement day the offender is not serving any period of concurrent imprisonment —
 - (a) the relevant warrants are cancelled on the first commencement day; and
 - (b) the offender is to be released from imprisonment on the first commencement day; and
 - (c) the liability of the offender to pay the amount owed in respect of each of the relevant fines is taken to be wholly discharged under section 53 on the first commencement day, even though only a part of the period for which the offender was to be imprisoned under each of the relevant warrants has been served.
- (3) If immediately before the first commencement day the offender is serving 1 or more periods of concurrent

imprisonment, the relevant warrants remain in force on and after the first commencement day, subject to sections 53 and 118(2) and (3).

118. Issue and cancellation of warrants of commitment in transitional period

- (1) During the transitional period, the Registrar must not issue a warrant of commitment in relation to an offender under section 53(1) or 55D(1) unless the offender is already serving a period of concurrent imprisonment.
- (2) Without limiting section 53, a warrant of commitment issued under this Act that is in force in the transitional period (whether issued before or during the transitional period) is cancelled if the offender ceases to be serving any period of concurrent imprisonment.
- (3) A warrant of commitment issued under this Act that is in force immediately before the second commencement day is cancelled on the second commencement day.
- (4) The cancellation of a warrant of commitment in relation to an offender and a fine under this section does not prevent the Registrar from taking any other enforcement action under Part 4 in relation to the offender and the fine.

119. Notices issued under s. 78(1) before first commencement day

- (1) This section applies if —
 - (a) before the first commencement day, the Sheriff served a notice under section 78(1) (the *section 78 notice*) in relation to compensation that was or could become payable under the *Criminal Injuries Compensation Act 2003*; and

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- (b) no money has been paid to the Sheriff in compliance with the section 78 notice before the first commencement day.
- (2) The section 78 notice is cancelled on the first commencement day.
- (3) If a compensation award made under the *Criminal Injuries Compensation Act 2003* before the first commencement day included a direction that an amount of compensation (the **relevant amount**) be paid to the Sheriff in compliance with the section 78 notice —
 - (a) despite that direction, the relevant amount must not be paid to the Sheriff; and
 - (b) an assessor, as defined in section 3 of that Act, must make another direction as to how the relevant amount is to be paid, or otherwise dealt with, in accordance with that Act.

Division 3 — General amendments

9. Section 3 amended

- (1) In section 3(1) delete the definitions of:
Department of Corrective Services
Electricity Generation and Retail Corporation
number plate
- (2) In section 3(1) insert in alphabetical order:

approved form means a form approved in writing by the CEO (fines enforcement);

CEO (fines enforcement) means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

electricity corporation means a corporation established under the *Electricity Corporations Act 2005* section 4(1);

hardship has a meaning affected by section 4A;

number plate has the meaning given in the *Road Traffic (Vehicles) Act 2012* section 3(1);

Registrar's website means a website, or a part of a website, maintained by or on behalf of the Registrar;

remote area means an area designated as a remote area under regulations made for the purposes of section 4B;

work and development order (WDO) means an order made under section 48, as amended from time to time.

- (3) In section 3(1) in the definition of ***vehicle licence*** delete “2012.” and insert:

2012;

- (4) Delete section 3(2).

10. Sections 4 to 4B inserted

After section 3 insert:

4. General principles relating to enforcement of fines

- (1) A person performing a function under this Act must have regard to the principles set out in subsection (2).
- (2) For the purposes of subsection (1), the principles are —
 - (a) that imprisonment for failure to pay a fine is an enforcement measure of last resort; and
 - (b) that an offender who is experiencing hardship affecting the offender's capacity to pay a fine or to perform the requirements of a work and development order should not be imprisoned by reason only of a failure to pay a fine.

4A. Hardship

- (1) For the purposes of this Act, a person is experiencing hardship if the person —
 - (a) is experiencing financial hardship; or
 - (b) has been or might be subjected or exposed to family violence (as defined in the *Restraining Orders Act 1997* section 3(1)); or
 - (c) has a mental illness (as defined in the *Mental Health Act 2014* section 4); or
 - (d) has a disability (as defined in the *Disability Services Act 1993* section 3); or
 - (e) is homeless; or
 - (f) is experiencing alcohol or other drug use problems.

- (2) Subsection (1) does not limit the circumstances in which a person may be experiencing hardship for the purposes of this Act.

4B. Remote areas

- (1) The regulations may designate 1 or more areas of the State as remote areas for the purposes of this Act.
- (2) Regulations made for the purposes of subsection (1) must not designate as a remote area an area that includes the metropolitan region (as defined in the *Planning and Development Act 2005* section 4(1)) or any part of the metropolitan region.

11. Section 5 amended

- (1) In section 5(3):
- (a) delete “the service of documents under 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” and insert:
- this Act, if a fine has been imposed on a
- (b) delete “that he or she” and insert:
- or the Sheriff that the person
- (2) In section 5(4):
- (a) delete “the service of any document under”;
- (b) delete paragraph (b) and insert:
- (b) an electricity corporation; or

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- (c) a government department, or agency, of the Commonwealth.

12. Section 5A amended

In section 5A(2):

- (a) in paragraph (a)(i) delete “section 47 or 47A;” and insert:

section 47;

- (b) after paragraph (d) insert:

- (e) a summons or arrest warrant issued under section 52Q;

- (c) in paragraph (f) delete “Part 7;” and insert:

Part 7, other than a garnishee order under section 95O or 95V;

13. Section 5C inserted

At the end of Part 1 insert:

5C. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

14. Section 7A amended

Delete section 7A(1)(b) and insert:

- (b) the power under section 52F to issue a fine
expiation order.

15. Sections 10 and 10A deleted

Delete sections 10 and 10A.

16. Section 11 amended

- (1) In section 11 delete the definitions of:

aggregate unpaid infringement amount
outstanding order to pay or elect

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

enforcement warrant means a warrant issued under
section 21A;

licence suspension order means an order made under
section 19;

time to pay order means an order made under
section 21C, as amended from time to time;

- (3) In section 11 in the definition of ***enforcement fees*** delete “under
this Part” and insert:

under this Act in relation to an infringement notice

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- (4) In section 11 in the definition of *modified penalty* delete “offender is to pay if he or she” and insert:

alleged offender is to pay if the alleged offender

- (5) In section 11 in the definition of *unpaid infringement amount* delete “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,” and insert:

a registered infringement notice, means that amount of the modified penalty, and enforcement fees, specified in the order to pay or elect for the infringement notice that has not been paid

17. Section 16 amended

Delete section 16(1)(b) and insert:

- (b) any information prescribed by the regulations,

18. Section 17 amended

In section 17(4) delete “may, in some circumstances,”.

19. Section 18 amended

- (1) Delete section 18(1)(b) and insert:

- (b) the unpaid infringement amount in respect of the infringement notice to which the order relates has not been paid to the Registry; and

(2) In section 18(3):

(a) delete paragraph (a) and insert:

(a) the unpaid infringement amount in respect of the infringement notice to which the order relates is paid to the Registry; or

(b) in paragraph (d) delete “in some circumstances,”.

(3) In section 18(5):

(a) in paragraph (b) after “will” insert:

generally

(b) after paragraph (c) insert:

(ca) state that a licence suspension order cannot be made in respect of an alleged offender who is an individual if the alleged offender’s last known address is in a remote area; and

(cb) explain the effect of section 19(2A)(b) and advise an alleged offender who is an individual to give the Registrar any information about the alleged offender’s personal circumstances that is relevant to whether section 20A(3) would apply if a licence suspension order were made; and

20. Section 19 amended

(1) In section 19(1):

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

enforce in relation to an infringement notice; and

(b) in paragraph (b) delete “modified penalty, and enforcement fees, specified in that notice have” and insert:

unpaid infringement amount in respect of the infringement notice has

(2) After section 19(2) insert:

(2A) The Registrar cannot make a licence suspension order in respect of an alleged offender who is an individual if —

(a) the alleged offender’s last known address is in a remote area; or

(b) the alleged offender has given the Registrar information about the alleged offender’s personal circumstances that gives the Registrar reasonable grounds to believe that section 20A(3) would apply to the alleged offender if the licence suspension order were made.

(3) In section 19(6) delete “he or she” and insert:

the Registrar

(4) Delete section 19(8) and insert:

- (8) A notice confirming licence suspension must —
- (a) state that a licence suspension order has been made and explain the terms of the order; and
 - (b) state the date and time when the licence suspension order has effect; and
 - (c) explain that an alleged offender who is an individual can request that the order be cancelled under section 20A(1).

21. Section 20 amended

(1) After section 20(2) insert:

- (2A) The Registrar must cancel a licence suspension order if the alleged offender gives the Registrar a notice stating that the alleged offender's current address is in a remote area.
- (2B) A notice under subsection (2A) must be in the approved form and accompanied by any documentation or evidence required by the approved form.

(2) In section 20(3) delete “subsection (2),” and insert:

subsection (2) or (2A) or section 20A(5)(b),

(3) In section 20(5) delete “subsection (1) or (2),” and insert:

this section or section 20A(5)(b),

22. Sections 20A and 20B inserted

After section 20 insert:

20A. Alleged offender may request cancellation of licence suspension order

- (1) An alleged offender who is an individual may, in accordance with the regulations, request the Registrar to cancel a licence suspension order that has been made in respect of the alleged offender and an infringement notice.
- (2) A request under subsection (1) cannot be made if an election has been made under section 21.
- (3) A request under subsection (1) may be made by an alleged offender if —
 - (a) the licence suspension order deprives the alleged offender of —
 - (i) the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the alleged offender or a member of the alleged offender's family; or
 - (ii) the principal means of obtaining income with which to pay the unpaid infringement amount;
 - or
 - (b) the licence suspension order seriously hinders the alleged offender in performing family or personal responsibilities.
- (4) Without limiting subsection (3)(a)(ii), the Registrar may, for the purposes of that subsection, consider the effect that the licence suspension order has had or will

have on the ability of the alleged offender to seek or obtain employment.

- (5) If the Registrar is satisfied that subsection (3) applies to the alleged offender, the Registrar —
- (a) must agree to the request; and
 - (b) must cancel the licence suspension order; and
 - (c) cannot make another licence suspension order under section 19 in respect of the alleged offender and the infringement notice unless —
 - (i) the Registrar is satisfied that subsection (3) no longer applies to the alleged offender; or
 - (ii) the Registrar makes a request under section 20B(2) and the alleged offender does not comply with the request.

20B. Registrar may request further information

- (1) This section applies if the Registrar —
- (a) does not make a licence suspension order in respect of an alleged offender because of section 19(2A)(b); or
 - (b) agrees to an alleged offender's request under section 20A(1) to cancel a licence suspension order.
- (2) The Registrar may request the alleged offender to provide, by a specified date, information or evidence in relation to whether section 20A(3) would apply if a licence suspension order were made in relation to the alleged offender.
- (3) The request must be in writing and must be served on the alleged offender.

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- (4) The Registrar must not make a request under subsection (2) more than once in every period of 12 months unless the Registrar is advised that the personal circumstances of the alleged offender have changed.
- (5) If the alleged offender does not comply with a request under subsection (2) the Registrar may, for the purposes of section 19(2A)(b), presume that section 20A(3) would not apply to the alleged offender if a licence suspension order were made.

23. Section 21A amended

- (1) In section 21A(1):
 - (a) in paragraph (a) delete “issued; and” and insert:

issued in relation to an infringement notice; and
 - (b) in paragraph (b) delete “modified penalty, and enforcement fees, specified in the notice have” and insert:

unpaid infringement amount in respect of the infringement notice has
 - (c) in paragraph (c) delete “section 21; and” and insert:

section 21,
 - (d) delete paragraph (d).

- (2) In section 21A(3) delete “modified penalty and enforcement fees owed by the alleged offender.” and insert:

unpaid infringement amount in respect of the infringement notice.

24. Part 3 Division 2A inserted

After Part 3 Division 2 insert:

Division 2A — Time to pay orders

21B. Application for time to pay order

- (1) An alleged offender may apply to the Registrar for a time to pay order in respect of an infringement notice that has been registered.
- (2) An application under subsection (1) must be made in accordance with the regulations and must include an offer to pay the unpaid infringement amount in respect of the infringement notice before a specified date or by regular instalments.
- (3) An application under subsection (1) —
 - (a) can be made at any time after the infringement notice is registered, whether or not a licence suspension order is in force in respect of the alleged offender and the infringement notice; but
 - (b) cannot be made if —
 - (i) an enforcement warrant is in force in relation to the alleged offender and the infringement notice; or

- (ii) the alleged offender has made an election under section 21.

21C. Making time to pay order

- (1) On an application under section 21B, the Registrar may require the alleged offender to undergo a means test.
- (2) On an application under section 21B, the Registrar, if the Registrar thinks fit, may make a time to pay order.
- (3) The Registrar must make a time to pay order on an application under section 21B if the Registrar is satisfied that —
 - (a) the alleged offender does not have the means to pay the unpaid infringement amount in respect of the infringement notice within 28 days after the application is made; and
 - (b) the alleged offender's offer to pay the unpaid infringement amount by a specified date or by regular instalments is reasonable; and
 - (c) either —
 - (i) the alleged offender has not previously contravened a time to pay order under this Act (including a time to pay order in relation to a different infringement notice or a time to pay order made under section 33); or
 - (ii) there is a reasonable excuse for any previous contravention by the alleged offender of a time to pay order under this Act.
- (4) A time to pay order may require the alleged offender —
 - (a) to pay the unpaid infringement amount in respect of the infringement notice before a set

date that is later than 28 days after the day on which the time to pay order is made; or

- (b) to pay the unpaid infringement amount in respect of the infringement notice by instalments on or before set dates.

- (5) A time to pay order must be served on the alleged offender.
- (6) If the Registrar refuses to make a time to pay order on an application under section 21B, notice of the refusal must be served on the alleged offender.

21D. Alleged offender may apply to have time to pay order amended

- (1) An alleged offender who has obtained a time to pay order in respect of an infringement notice may apply to the Registrar, in accordance with the regulations, to have the time to pay order amended.
- (2) On an application the Registrar may require the alleged offender to undergo a means test.
- (3) On an application the Registrar, if the Registrar thinks fit, may amend a time to pay order.
- (4) An amended time to pay order must be served on the alleged offender.
- (5) If the Registrar refuses to amend a time to pay order, notice of the refusal must be served on the alleged offender.

21E. Registrar may amend time to pay order

- (1) The Registrar may at any time request an alleged offender who has obtained a time to pay order in respect of an infringement notice to undergo a means test.

- (2) The request must be in writing and must be served on the alleged offender.
- (3) After means testing the alleged offender, the Registrar, if the Registrar thinks fit, may amend the time to pay order.
- (4) An amended time to pay order must be served on the alleged offender.
- (5) The Registrar must not require an alleged offender to undergo a means test more than once in every period of 12 months, unless the Registrar is advised that the financial circumstances of the alleged offender have changed.

21F. Payments ordered must be within means of alleged offender

In making or amending a time to pay order, the Registrar must ensure that any payment to be made under the order is within the alleged offender's means to pay it.

21G. Registrar may cancel time to pay order

- (1) The Registrar may cancel a time to pay order if the alleged offender —
 - (a) contravenes the order; or
 - (b) does not comply with a request made under section 21E(1).
- (2) Notice of the cancellation must be served on the alleged offender.

21H. Enforcement action suspended while time to pay order is in force

- (1) If the Registrar makes a time to pay order in respect of an infringement notice, the Registrar must, as soon as

practicable, cancel any licence suspension order in force in relation to the infringement notice.

- (2) If a time to pay order is in force in respect of an infringement notice, the Registrar must not, despite any other provision of this Part —
- (a) issue a notice of intention to enforce under section 18 in relation to the infringement notice; or
 - (b) make a licence suspension order in relation to the infringement notice; or
 - (c) issue an enforcement warrant in relation to the infringement notice.

25. Section 21 amended

In section 21(1)(c) delete “section 27A(4); and” and insert:

section 21C; and

26. Section 22 amended

In section 22(5):

- (a) delete paragraph (c)(ii) and insert:
 - (ii) under the enforcement warrant, a vehicle licence cancellation and disqualification order was made under section 95J in respect of a vehicle of the alleged offender,
- (b) in paragraph (c) delete “regulations.” and insert:

regulations; and

- (c) after paragraph (c) insert:
 - (d) if any amount has been paid to the Sheriff under a garnishee order issued under an enforcement warrant that was issued in respect of the infringement notice, the alleged offender is to be refunded that amount; and
 - (e) if any administration fee of a kind referred to in section 95Z has been charged by the bank in relation to a garnishee order referred to in paragraph (d), the alleged offender is to be paid an amount equal to that fee by the Sheriff.

27. Sections 27A to 27D replaced

Delete sections 27A to 27D and insert:

27A. Certain decisions of Registrar are final

A decision of the Registrar under section 20A or Division 2A is final.

28. Section 28 amended

- (1) In section 28(1) delete the definitions of:

time to pay order

work and development order

- (2) In section 28(1) insert in alphabetical order:

amount owed, in relation to a fine, means the amount of the fine and any enforcement fees relating to the fine —

- (a) that has not been paid or recovered under an enforcement warrant; and

- (b) the liability to pay which has not been discharged under section 51, 52H, 52I, 52T(3) or 53;

audio link has the meaning given in the *Criminal Procedure Act 2004* section 3(1);

authorised police officer has the meaning given in the *Bail Act 1982* section 3(1);

court custody centre has the meaning given in the *Court Security and Custodial Services Act 1999* section 3;

detainee means a person who is detained in a detention centre;

detention centre has the meaning given in the *Inspector of Custodial Services Act 2003* section 3;

enforceable registered fine, in relation to an offender, means a fine imposed on the offender if —

- (a) the fine is registered; and
- (b) the amount owed in respect of the fine has not been paid in full or recovered in full under an enforcement warrant; and
- (c) the liability of the offender to pay the amount owed in respect of the fine has not been wholly discharged under section 51, 52H, 52I, 52T(3) or 53;

enforcement instrument means —

- (a) a licence suspension order; or
- (b) an enforcement warrant; or
- (c) an order to attend for work and development; or
- (d) a fine expiation order;

enforcement warrant means a warrant issued under section 45;

fine enforcement (WDO) order means an order made under the *Sentencing Act 1995* section 57A(3);

fine expiation order means an order issued under section 52F;

licence suspension order means an order made under section 43;

ongoing fine expiation order has the meaning given in section 52I;

order to attend for work and development means an order issued under section 47(1);

person in court custody means a person in custody as defined in the *Court Security and Custodial Services Act 1999* section 3 for whom the CEO (as defined in that section) is responsible under that Act;

police facility means a police station or other premises managed or controlled by the Commissioner of Police at which a person may be detained in police custody;

prison has the meaning given in the *Inspector of Custodial Services Act 2003* section 3;

prisoner has the meaning given in the *Prisons Act 1981* section 3(1);

responsible officer, in relation to an offender arrested under an arrest warrant issued under section 52Q(1)(b), has the meaning given in section 52ZC(2);

time to pay order means an order made under section 33, as amended from time to time;

video link has the meaning given in the *Criminal Procedure Act 2004* section 3(1);

warrant of commitment means a warrant of commitment issued under section 52S;

warrant of commitment inquiry has the meaning given in section 52M(1);

warrant of commitment inquiry process has the meaning given in section 52M(2).

- (3) In section 28(1) in the definition of ***court officer*** delete “chief executive officer;” and insert:

CEO (fines enforcement);

- (4) In section 28(1) in the definition of ***enforcement fees*** delete “under this Part;” and insert:

under this Act in relation to a fine;

- (5) In section 28(1) in the definition of ***registered*** delete “section 41(1);” and insert:

section 32(2)(a) or 32B;

- (6) Delete section 28(2).

29. Part 4 Division 2 heading amended

In the heading to Part 4 Division 2 after “**Payment**” insert:

and registration

30. Part 4 Division 2 Subdivision 1 heading replaced

Delete the heading to Part 4 Division 2 Subdivision 1 and insert:

Subdivision 1 — Fines taken to be registered when imposed

31. Section 32 amended

- (1) In section 32(2)(b) delete “section 42 or 47A in relation to the fine” and insert:

 this Part to enforce the fine

- (2) Delete section 32(3)(b) and (c) and insert:

- (b) one of the methods of enforcement available under this Part is already being applied in respect of another enforceable registered fine of the offender.

- (3) Delete section 32(4) and insert:

- (4) This section is subject to the *Sentencing Act 1995* sections 57A, 58 and 59.

32. Section 33 replaced

Delete section 33 and insert:

Subdivision 2 — Fines registered at request of prosecuting authority

32A. Application

This Subdivision applies to a fine to which Subdivision 1 does not apply.

32B. Fine may be registered at request of prosecuting authority

- (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.
- (2) In subsection (1) —
prosecuting authority means —
 - (a) if the *Sentencing Act 1995* section 60(2) or (3) applies to the fine — the person that is to be paid the fine, or who administers the fund or account that is to be credited with the fine, under that section; or
 - (b) if the fine was imposed under a law of the Commonwealth — a person who administers proceedings in relation to offences under that law.

Subdivision 3 — Time to pay orders

32C. Application for time to pay order

- (1) An offender may apply to the Registrar for a time to pay order in respect of a fine imposed on the offender that has been registered.
- (2) An application under subsection (1) must be made in accordance with the regulations and must include an offer to pay the amount owed in respect of the fine before a specified date or by regular instalments.
- (3) An application under subsection (1) —
 - (a) can be made at any time after the fine is registered, whether or not —
 - (i) a licence suspension order, order to attend for work and development or WDO is in force in relation to the offender and the fine; or
 - (ii) a warrant of commitment inquiry process is occurring in relation to the offender and the fine;
 - but
 - (b) cannot be made if an enforcement warrant, ongoing fine expiation order or warrant of commitment is in force in relation to the offender and the fine.

33. Making time to pay order

- (1) On an application under section 32C, the Registrar may require the offender to undergo a means test.
- (2) On an application under section 32C, the Registrar, if the Registrar thinks fit, may make a time to pay order.

- (3) The Registrar must make a time to pay order on an application under section 32C if —
- (a) the Registrar is satisfied that the offender does not have the means to pay the amount owed in respect of the fine within 28 days after the application is made; and
 - (b) the Registrar is satisfied that the offender's offer to pay the amount owed by a specified date or by regular instalments is reasonable; and
 - (c) the Registrar is satisfied that either —
 - (i) the offender has not previously contravened a time to pay order under this Act (including a time to pay order in relation to a different fine or a time to pay order made under section 21C); or
 - (ii) there is a reasonable excuse for any previous contravention by the offender of a time to pay order under this Act;and
 - (d) a warrant of commitment inquiry process is not occurring in relation to the offender and the fine.
- (4) A time to pay order may require the offender —
- (a) to pay the amount owed in respect of the fine before a set date that is later than 28 days after the day on which the time to pay order is made; or
 - (b) to pay the amount owed in respect of the fine by instalments on or before set dates.
- (5) A time to pay order must be served on the offender.

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- (6) If the Registrar refuses to make a time to pay order on an application under section 32C, notice of the refusal must be served on the offender.

33. Section 34 amended

- (1) In section 34(1) delete “Registrar” and insert:

Registrar, in accordance with the regulations,

- (2) In section 34(4) delete “he or she” and insert:

the Registrar

34. Section 35 amended

- (1) In section 35(2) after “if the” insert:

amount owed in respect of the

- (2) In section 35(4) delete “he or she” and insert:

the Registrar

**35. Sections 36 to 39 and Part 4 Division 2 Subdivision 2
heading replaced**

Delete sections 36 to 38A, the heading to Part 4 Division 2
Subdivision 2 and sections 38 and 39 and insert:

36. Registrar may cancel time to pay order

- (1) The Registrar may cancel a time to pay order if the offender —
 - (a) contravenes the order; or
 - (b) does not comply with a request made under section 35(1).
- (2) Notice of the cancellation must be served on the offender.

**37. Enforcement action suspended while time to pay
order is in force**

- (1) If the Registrar makes a time to pay order in respect of a fine, the Registrar must, as soon as practicable, cancel any licence suspension order or order to attend for work and development that is in force in relation to the fine.
- (2) If the Registrar makes a time to pay order in respect of a fine, the CEO (corrections) must, as soon as practicable, cancel any WDO that is in force in relation to the fine.

- (3) If a time to pay order is in force in respect of a fine, the Registrar must not, despite any other provision of this Part —
 - (a) issue a notice of intention to enforce under section 42 in relation to the fine; or
 - (b) make or issue an enforcement instrument in relation to the fine; or
 - (c) make an application under section 52N in relation to the fine.
- (4) If the Registrar makes a time to pay order in respect of a fine while a warrant of commitment inquiry process is occurring in relation to the offender and the fine, the Registrar must, as soon as practicable, withdraw the application for the warrant of commitment inquiry under section 52ZI.

36. Part 4 Division 3 heading deleted

Delete the heading to Part 4 Division 3.

37. Section 40 deleted

Delete section 40.

38. Part 4 Division 2 Subdivision 4 heading inserted

Before section 41 insert:

Subdivision 4 — Cancellation of registration

39. Section 41 amended

- (1) Delete section 41(1).
- (2) Delete section 41(3) and insert:
 - (3) At any time after a fine is registered a court officer may, if there is good reason to do so, order the Registrar in writing to cancel the registration, unless —
 - (a) an enforcement warrant or warrant of commitment is in force in relation to the fine;
or
 - (b) a warrant of commitment inquiry process is occurring in relation to the fine.
- (3) In section 41(4):
 - (a) delete “Division 2”;
 - (b) delete “section 39(2)).” and insert:

section 32B(2)).
- (4) In section 41(5):
 - (a) in paragraph (a) delete “section 55A(4)” and insert:

section 33
 - (b) delete paragraphs (b) and (c) and insert:
 - (b) any enforcement instrument or WDO in force in respect of the fine is cancelled; and

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(c) in paragraph (d) delete “order” and insert:

time to pay order or licence suspension order

Note: The heading to amended section 41 is to read:

Cancellation of registration

40. Part 4 Division 3 heading inserted

After section 41 insert:

Division 3 — Notice of intention to enforce

41. Section 42 amended

(1) Delete section 42(1) and insert:

(1) The Registrar may issue a notice of intention to enforce in relation to a registered fine.

(2) In section 42(3):

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

offender.

(b) delete paragraph (d).

(3) In section 42(5):

(a) in paragraph (b) after “will” insert:

generally

(b) after paragraph (c) insert:

- (ca) state that a licence suspension order cannot be made in respect of an offender who is an individual if the offender's last known address is in a remote area; and
- (cb) explain the effect of section 43(2A)(b) and advise an offender who is an individual to give the Registrar any information about the offender's personal circumstances that is relevant to whether section 44A(2) would apply if a licence suspension order were made; and

(c) after paragraph (d) insert:

- (da) explain the circumstances in which a fine expiation order can be issued and how an application for a fine expiation order can be made; and
- (db) explain that, if other enforcement action is unsuccessful, the Registrar can apply to the Magistrates Court for a warrant of commitment inquiry to be held; and
- (dc) explain the principles in section 4; and

42. Part 4 Division 3A heading inserted

After section 42 insert:

Division 3A — Licence suspension orders

43. Section 43 amended

(1) Delete section 43(1) and insert:

- (1) The Registrar may make a licence suspension order in respect of an offender and an enforceable registered fine if —
- (a) a notice of intention to enforce has been issued under section 42 in relation to the fine; and
 - (b) the due date specified in that notice has passed.

(2) After section 43(2) insert:

- (2A) The Registrar cannot make a licence suspension order in respect of an offender who is an individual if —
- (a) the offender's last known address is in a remote area; or
 - (b) the offender has given the Registrar information about the offender's personal circumstances that gives the Registrar reasonable grounds to believe that section 44A(2) would apply to the offender if the licence suspension order were made.

(3) In section 43(6) delete “he or she” and insert:

the Registrar

(4) Delete section 43(8) and insert:

- (8) A notice confirming licence suspension must —
- (a) state that a licence suspension order has been made and explain the terms of the order; and
 - (b) state the date and time when the licence suspension order has effect; and
 - (c) explain that an offender who is an individual can request that the order be cancelled under section 44A(1).

44. Section 44 amended

(1) After section 44(2) insert:

- (2A) The Registrar must cancel a licence suspension order if the offender gives the Registrar a notice stating that the offender's current address is in a remote area.
- (2B) A notice under subsection (2A) must be in the approved form and accompanied by any documentation or evidence required by the approved form.

(2) In section 44(3) delete “subsection (2) or section 45(2),” and insert:

subsection (2) or (2A) or section 37(1), 44A(4)(b) or 53A(2)(b),

- (3) In section 44(5) delete “subsection (1) or (2) or section 45(2),” and insert:

this section or section 37(1), 44A(4)(b) or 53A(2)(b),

45. Sections 44A and 44B inserted

After section 44 insert:

44A. Offender may request cancellation of licence suspension order

- (1) An offender who is an individual may, in accordance with the regulations, request the Registrar to cancel a licence suspension order that has been made in respect of the offender and an enforceable registered fine.
- (2) A request under subsection (1) may be made by an offender if —
- (a) the licence suspension order deprives the offender of —
 - (i) the means of obtaining urgent medical treatment for an illness, disease or disability known to be suffered by the offender or a member of the offender’s family; or
 - (ii) the principal means of obtaining income with which to pay the amount owed in respect of the fine;
 - or
 - (b) the licence suspension order seriously hinders the offender in performing family or personal responsibilities.

- (3) Without limiting subsection (2)(a)(ii), the Registrar may, for the purposes of that subsection, consider the effect that the licence suspension order has had or will have on the ability of the offender to seek or obtain employment.
- (4) If the Registrar is satisfied that subsection (2) applies to the offender, the Registrar —
 - (a) must agree to the request; and
 - (b) must cancel the licence suspension order; and
 - (c) cannot make another licence suspension order under section 43 in respect of the offender and the fine unless —
 - (i) the Registrar is satisfied that subsection (2) no longer applies to the offender; or
 - (ii) the Registrar makes a request under section 44B(2) and the offender does not comply with the request.

44B. Registrar may request further information

- (1) This section applies if the Registrar —
 - (a) does not make a licence suspension order in relation to an offender because of section 43(2A)(b); or
 - (b) agrees to an offender's request under section 44A(1) to cancel a licence suspension order.
- (2) The Registrar may request the offender to provide, by a specified date, information or evidence in relation to whether section 44A(2) would apply if a licence suspension order were made in relation to the offender.

- (3) The request must be in writing and must be served on the offender.
- (4) The Registrar must not make a request under subsection (2) more than once in every period of 12 months unless the Registrar is advised that the personal circumstances of the offender have changed.
- (5) If the offender does not comply with a request under subsection (2) the Registrar may, for the purposes of section 43(2A)(b), presume that section 44A(2) would not apply to the offender if a licence suspension order were made.

46. Part 4 Division 3B heading inserted

Before section 45 insert:

Division 3B — Enforcement warrants

47. Section 45 amended

Delete section 45(1) and insert:

- (1) The Registrar may issue an enforcement warrant in respect of an offender and an enforceable registered fine if —
 - (a) a notice of intention to enforce has been issued under section 42 in relation to the fine; and
 - (b) the due date specified in that notice has passed.

48. Part 4 Division 3C heading inserted

After section 45 insert:

Division 3C — Work and development

49. Sections 46 to 47A replaced

Delete sections 46 to 47A and insert:

46. Division does not apply to body corporate

This Division does not apply in relation to an offender that is a body corporate.

47. Order to attend for work and development

- (1) The Registrar may issue an order to attend for work and development in respect of an offender and an enforceable registered fine if —
 - (a) a notice of intention to enforce has been issued under section 42 in relation to the fine; and
 - (b) the due date specified in that notice has passed.
- (2) An order to attend for work and development issued under subsection (1) must not be served on an offender unless the Registrar is satisfied that the offender —
 - (a) does not have the means to pay the amount owed in respect of the fine; and
 - (b) does not have any personal property that could be seized under an enforcement warrant to satisfy, wholly or partly, the amount owed in respect of the fine; and
 - (c) will be unlikely to have the means to pay, or personal property that could be so seized,

within a reasonable time after the order is issued.

- (3) The Registrar may require the offender to undertake a means test for the purpose of determining whether subsection (2) is satisfied.
- (4) An order to attend for work and development must be served personally.

50. Section 47B amended

In section 47B delete “section 47 or 47A is an order requiring the offender, within 7 days after the service of the order —” and insert:

section 47 is an order requiring the offender, within 7 days after the service of the order or a longer period specified in the order —

51. Section 48A replaced

Delete section 48A and insert:

47C. Cancellation and duration of order to attend for work and development

- (1) The Registrar may cancel an order to attend for work and development issued under section 47 if it is not reasonably practicable to serve the order on the offender —
 - (a) personally; or
 - (b) by electronic means under section 5A(1).

- (2) An order to attend for work and development —
- (a) comes into force when it is served on the offender; and
 - (b) is in force until whichever of the following occurs first —
 - (i) the order is cancelled;
 - (ii) the amount owed in respect of the fine is paid;
 - (iii) a WDO is made in respect of the offender and the fine;
 - (iv) the time within which the offender must pay the amount owed or report to a community corrections centre expires.

52. Section 48 amended

Delete section 48(4) and (5) and insert:

- (4) If the CEO (corrections) decides not to make a WDO in respect of an offender under subsection (2), the CEO (corrections) must give the Registrar written notice stating —
- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) if the decision is made because the CEO (corrections) is satisfied that the offender is mentally or physically incapable of performing the requirements of the WDO — whether, in the opinion of the CEO (corrections), the offender is likely to become mentally and physically capable of performing the requirements of a WDO within a reasonable

time after the day on which the decision is made.

Note: The heading to amended section 48 is to read:

Making work and development order

53. Section 50 amended

- (1) In section 50(1)(b) delete “do the prescribed number of the required hours; and” and insert:

do community corrections activities for the number of hours specified in the WDO; and

- (2) After section 50(2) insert:

- (2A) A CCO may, by written notice served on the offender, amend the WDO to specify a lower number of hours than the number specified under subsection (1)(b).

Note: The heading to amended section 50 is to read:

Primary requirements of work and development order

54. Section 51 amended

- (1) In section 51(1) delete “A WDO is completed when the offender’s liability to pay the fine and enforcement fees is discharged —” and insert:

If a WDO has been issued in relation to an offender and a fine, the offender’s liability to pay the amount owed in respect of the fine may be discharged —

(2) After section 51(3) insert:

- (4) A WDO is completed when the offender's liability to pay the amount owed is wholly discharged under this section.

Note: The heading to amended section 51 is to read:

Discharge of liability under work and development order

55. Section 52 amended

After section 52(2) insert:

- (3) A WDO —
- (a) comes into force when it is issued; and
 - (b) is in force until whichever of the following occurs first —
 - (i) the WDO is completed under section 51(4);
 - (ii) the WDO is cancelled.

Note: The heading to amended section 52 is to read:

Cancellation and duration of work and development order

56. Section 53A replaced

Delete section 53A and insert:

Division 3D — Fine expiation orders

52A. Division does not apply to body corporate

This Division does not apply in relation to an offender that is a body corporate.

52B. Term used: daily expiation amount

In this Division —

daily expiation amount means the amount prescribed by the regulations for the purposes of this definition.

52C. When a person is in custody for the purposes of fine expiation order

- (1) For the purposes of this Division, a person is in custody during any period when the person is —
 - (a) under arrest; or
 - (b) a prisoner in a prison; or
 - (c) a detainee in a detention centre; or
 - (d) a person in court custody in a court custody centre; or
 - (e) detained at a police facility; or
 - (f) detained under a custody order (as defined in the *Criminal Law (Mentally Impaired Accused) Act 1996* section 3).
- (2) For the purposes of subsection (1)(a) to (e), a person is in custody whether the person is serving a sentence of imprisonment, on remand, in custody under an arrest warrant or warrant of commitment issued under Division 3E or in custody for any other reason.
- (3) For the purposes of this Division, a period of custody —
 - (a) is a period during which a person is continuously in custody (whether the same or different kinds of custody and whether the custody relates to 1 or more offences or charges); and

- (b) begins on the day on which the person is taken into custody and ends on the day on which the person ceases to be in custody.
- (4) For the purposes of this Division, a part-day during which a person is in custody is to be counted as a day.

52D. Fine expiation order

- (1) A fine expiation order is an order enabling an offender who is in custody, or has been in custody, to discharge the offender's liability to pay the amount owed in respect of a fine.
- (2) A fine expiation order does not authorise the offender to be held in custody.

52E. Application for fine expiation order

- (1) An offender may apply to the Registrar, in accordance with the regulations, for a fine expiation order in relation to an enforceable registered fine.
- (2) An application under subsection (1) may be made —
 - (a) by an offender who is in custody, in relation to that period of custody; or
 - (b) by an offender who has been in custody, in relation to a period of custody that has ended.
- (3) An application referred to in subsection (2)(a) may be made on behalf of the offender —
 - (a) by a person authorised in writing by the offender to make the application; or
 - (b) by a person or body authorised to make the application under subsection (4), with the consent of the offender.

- (4) The Registrar may, in writing, authorise a person or body to make applications under subsection (1) on behalf of offenders.
- (5) An authorisation under subsection (4) may relate to all offenders or offenders of a specified class.

52F. Issue of fine expiation order

- (1) On an application under section 52E, the Registrar may issue a fine expiation order in relation to the offender and the fine if the Registrar is satisfied that the offender —
 - (a) does not have the means to pay the amount owed in respect of the fine; and
 - (b) does not have any personal property that could be seized under an enforcement warrant to satisfy, wholly or partly, the amount owed in respect of the fine; and
 - (c) will be unlikely to have the means to pay, or personal property that could be so seized —
 - (i) for an application referred to in section 52E(2)(a) — within a reasonable time after the period of custody referred to in that section will end; or
 - (ii) for an application referred to in section 52E(2)(b) — within a reasonable time after the application is made.
- (2) The Registrar may require the offender to undertake a means test for the purpose of determining whether subsection (1) is satisfied.
- (3) A fine expiation order must be served on the offender.

- (4) If the Registrar refuses to issue a fine expiation order, the Registrar must serve notice of the refusal on the offender.
- (5) Two or more fine expiation orders in relation to different fines can be issued in relation to the same period of custody.

52G. Form of fine expiation order

- (1) A fine expiation order must —
 - (a) be in the approved form; and
 - (b) state the amount owed in respect of the fine; and
 - (c) state an expiation commencement day, which may be earlier than the day on which the order is issued but must not be earlier than any of the following —
 - (i) the first day of the period of custody to which the order relates;
 - (ii) the day on which the fine was registered;
 - (iii) the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* section 56 came into operation.
- (2) A fine expiation order issued on an application referred to in section 52E(2)(b) must also state the last day of the period of custody to which it relates.

52H. Discharge of liability when fine expiation order is issued

- (1) This section applies if —
 - (a) a fine expiation order is issued in relation to an offender and a fine; and

- (b) the expiation commencement day stated in the order under section 52G(1)(c) is earlier than the day on which the order is issued (the *issue day*).
- (2) When the fine expiation order is issued, the offender's liability to pay the amount owed in respect of the fine is reduced by the amount determined by multiplying the daily expiation amount by the number of days in the period —
 - (a) beginning on the expiation commencement day; and
 - (b) ending —
 - (i) if the period of custody to which the order relates has ended on the issue day — on the last day of the period of custody; or
 - (ii) otherwise — on the day before the issue day.
- (3) If the amount owed in respect of the fine is equal to or less than the amount determined under subsection (2), the offender's liability to pay the amount owed is wholly discharged when the fine expiation order is issued.

52I. Discharge of liability under ongoing fine expiation order

- (1) This section applies to a fine expiation order (an *ongoing fine expiation order*) if —
 - (a) when the order is issued, the period of custody to which the order relates has not ended; and
 - (b) either —
 - (i) section 52H does not apply to the order; or

- (ii) section 52H applies to the order but the liability to pay the amount owed is not wholly discharged under that section.
- (2) At the end of each day during which the ongoing fine expiation order is in force, the offender's liability to pay the amount owed in respect of the fine is reduced by the daily expiation amount.
- (3) If, on a day on which the ongoing fine expiation order is in force, the amount owed in respect of the fine is equal to or less than the daily expiation amount, the offender's liability to pay the amount owed is wholly discharged at the end of that day.

52J. Cancellation and duration of fine expiation order

- (1) A fine expiation order, other than an ongoing fine expiation order, has effect when it is issued.
- (2) An ongoing fine expiation order —
 - (a) comes into force on the day on which it is issued; and
 - (b) is in force until whichever of the following occurs first —
 - (i) the offender's liability to pay the amount owed in respect of the fine is wholly discharged under section 52I(3);
 - (ii) the period of custody to which the order relates ends;
 - (iii) the order is cancelled;
 - and
 - (c) may be in force concurrently with 1 or more other ongoing fine expiation orders issued in relation to other fines.
- (3) The Registrar may at any time cancel an ongoing fine expiation order for good reason.

- (4) The Registrar must serve notice on the offender of a cancellation of an ongoing fine expiation order under subsection (3).

Division 3E — Warrants of commitment and other court-ordered enforcement action

Subdivision 1 — Preliminary

52K. Division does not apply to body corporate

This Division does not apply in relation to an offender that is a body corporate.

52L. Magistrates Court to be constituted by Magistrate

- (1) For the purposes of proceedings under this Division, the Magistrates Court is to be constituted by 1 magistrate.
- (2) Despite the *Magistrates Court Act 2004* section 28, the Magistrates Court's jurisdiction and powers in relation to proceedings under this Division cannot be delegated to a registrar of the Court.
- (3) A reference in this Division to the Magistrates Court does not include the Registry.

Subdivision 2 — Application for and conduct of warrant of commitment inquiry

52M. Warrant of commitment inquiry

- (1) A *warrant of commitment inquiry* is an inquiry conducted before the Magistrates Court in order to determine the following in relation to an offender and 1 or more enforceable registered fines —
 - (a) whether the offender has the means to pay, or to pay by instalments, the amount owed in respect of the fines, having regard to the

- offender's income, assets, liabilities and personal circumstances;
- (b) the offender's suitability for a WDO and the likelihood of the offender complying with a WDO;
 - (c) whether the offender has contravened an order made under section 52S(1) in a previous warrant of commitment inquiry;
 - (d) the appropriate action to be taken under this Act to enforce the fines.
- (2) A ***warrant of commitment inquiry process*** is occurring in relation to a fine if —
- (a) the Registrar has applied under section 52N for a warrant of commitment inquiry to be held in relation to the offender and the fine; and
 - (b) the application has not been withdrawn under section 52ZI; and
 - (c) either —
 - (i) the Magistrates Court has not made a decision under section 52P on the application; or
 - (ii) the Magistrates Court has decided under section 52P to hold the warrant of commitment inquiry but the inquiry has not been held.

52N. Application for warrant of commitment inquiry

- (1) The Registrar may, in the circumstances referred to in subsection (2) or (3), apply to the Magistrates Court for a warrant of commitment inquiry to be held in relation to 1 or more enforceable registered fines (the ***relevant fines***) imposed on an offender.

- (2) The Registrar may make an application under subsection (1) if —
- (a) the offender has been served with an order to attend for work and development, or a fine enforcement (WDO) order, in relation to 1 or more of the relevant fines; and
 - (b) any of the following occurred in relation to any order to attend for work and development or fine enforcement (WDO) order referred to in paragraph (a) —
 - (i) the offender did not report as required by the order;
 - (ii) a WDO was not made under section 48 or could not be served on the offender;
 - (iii) a WDO was made under section 48 but was cancelled under section 52(1) because of non-compliance with the WDO;
- and
- (c) the Registrar is satisfied that —
 - (i) all applicable enforcement action that could be taken under this Act has been taken in relation to 1 or more of the relevant fines; and
 - (ii) any further enforcement action that could be taken under this Act is not applicable or is unlikely to result in the recovery of the amount owed in respect of the relevant fines.
- (3) The Registrar may make an application under subsection (1) if a previous warrant of commitment inquiry has been held in relation to any of the relevant fines and the offender has contravened any order made under section 52S(1) at that inquiry.

- (4) An application under subsection (1) can be made whether or not a warrant of commitment inquiry has previously been held in relation to the offender and any or all of the relevant fines or any other fine.

52O. Information and evidence to be included in application

- (1) An application under section 52N must include the following information —
- (a) the offender's name and last known address;
 - (b) for each of the relevant fines referred to in section 52N(1) —
 - (i) the amount owed; and
 - (ii) a summary of the enforcement action taken under this Act before the application is made;
 - (c) the name and address of any other person the Registrar thinks should be summoned to the inquiry to give evidence;
 - (d) whether the Registrar requests that a summons under section 52Q(1)(a) or an arrest warrant under section 52Q(1)(b) be issued for the offender;
 - (e) the orders that the Registrar requests be made under section 52S at the inquiry and the reasons, expressed in general terms, for that request.
- (2) The application must be supported by —
- (a) documentation as to the matters in subsection (1)(b); and
 - (b) if the Registrar requests that an arrest warrant under section 52Q(1)(b) be issued for the offender — evidence on oath that there are

grounds for the issue of the warrant under
section 52Q(3).

**52P. Decision on application for warrant of commitment
inquiry**

- (1) The Magistrates Court may make a decision on an application under section 52N from a consideration of the documents lodged with the Court by the Registrar.
- (2) If the Court decides to hold a warrant of commitment inquiry, the Court must issue in relation to the offender either —
 - (a) a summons under section 52Q(1)(a); or
 - (b) an arrest warrant under section 52Q(1)(b).

52Q. Issue of summons or arrest warrant

- (1) For the purposes of a warrant of commitment inquiry to be held in relation to an offender, the Magistrates Court may —
 - (a) issue a summons in accordance with Subdivision 3 for the offender to appear at the warrant of commitment inquiry and do either or both of the following —
 - (i) give oral evidence for the purpose of the inquiry;
 - (ii) produce for the Court, for use in the inquiry, any record or thing that may be relevant to the inquiry;
 - or
 - (b) subject to subsection (3), issue an arrest warrant in accordance with Subdivision 4 to have an offender arrested and brought before the Court for the warrant of commitment inquiry.

- (2) If the application for the warrant of commitment inquiry names 1 or more persons under section 52O(1)(c), the Court may also issue a summons in accordance with Subdivision 3 for any of those persons to appear at the warrant of commitment inquiry and do either or both of the things referred to in subsection (1)(a).
- (3) The Court must not issue an arrest warrant under subsection (1)(b) unless —
 - (a) a summons under subsection (1)(a) in respect of the inquiry has been served on the offender in accordance with section 52V and the offender did not attend Court as required by the summons; or
 - (b) a summons under subsection (1)(a) in respect of a previous warrant of commitment inquiry was served on the offender in accordance with section 52V and the offender did not attend Court as required by the summons; or
 - (c) the offender has, on at least 2 occasions, contravened an order made under section 52S(1); or
 - (d) the offender has failed to comply with a conditional release undertaking entered into following the arrest of the offender under an arrest warrant that was issued under subsection (1)(b) for the purposes of the inquiry or a previous warrant of commitment inquiry.
- (4) If the Court issues a summons under subsection (1)(a) in relation to the offender, the Court must set a date for the inquiry and notify the Registrar of that date.

52R. Conduct of warrant of commitment inquiry

- (1) At a warrant of commitment inquiry the Magistrates Court is to determine the matters listed in section 52M(1).
- (2) At a warrant of commitment inquiry the offender must produce to the Court all records that relate to the matters listed in section 52M(1)(a) that are in the possession or under the control of the offender.
- (3) At a warrant of commitment inquiry the Court may itself examine the offender for the purposes of determining the matters listed in section 52M(1).
- (4) Subject to this Division —
 - (a) the practice and procedure that applies to warrant of commitment inquiries and applications and orders under this Division is the general procedure under the *Magistrates Court (Civil Proceedings) Act 2004*; and
 - (b) rules of court made under that Act may deal with that practice and procedure.

52S. Court may make orders or issue warrant of commitment

- (1) At a warrant of commitment inquiry the Magistrates Court may make any of the following orders in relation to the offender and any of the fines to which the inquiry relates —
 - (a) an order that the Registrar make a time to pay order under section 33;
 - (b) an order that an order to attend for work and development should be issued;
 - (c) an order writing off all or part of the amount owed in respect of the fine;

- (d) an order amending an order made at a previous warrant of commitment inquiry in relation to the fine, including by extending any time period in that order;
 - (e) an order that a warrant of commitment should be issued;
 - (f) any other order the Court considers appropriate in the circumstances.
- (2) In making an order under subsection (1), the Court must have regard to —
 - (a) the matters set out in section 52M(1) that it has determined; and
 - (b) the principles set out in section 4(2); and
 - (c) any other matters the Court considers relevant.
- (3) If the warrant of commitment inquiry relates to more than 1 fine, separate orders are to be made under subsection (1) in relation to each of the fines to which the inquiry relates.
- (4) If the Court makes an order under subsection (1)(e) in relation to an offender and a fine, it must issue a warrant of commitment in the prescribed form in relation to the fine.

52T. Effect of orders under s. 52S(1)(a) to (c)

- (1) If the Magistrates Court makes an order under section 52S(1)(a), the Registrar must make a time to pay order under section 33 in relation to the fine, even though the offender has not applied for the time to pay order.
- (2) If the Court makes an order under section 52S(1)(b) —
 - (a) an order to attend for work and development is taken to have been issued and served under

section 47 when the order under section 52S(1)(b) is made; and

- (b) the offender must pay the amount owed, or report to a community corrections centre, as referred to in section 47B within the period of 7 days after the order under section 52S(1)(b) is made, unless the Court specifies a longer period.
- (3) If the Court makes an order under section 52S(1)(c), the offender's liability to pay the amount owed in respect of the fine is taken to be discharged to the extent specified in the order.

Subdivision 3 — Summons to appear at warrant of commitment inquiry

52U. Form of summons

A summons to appear at a warrant of commitment inquiry issued in relation to a person under section 52Q(1)(a) or (2) must —

- (a) be in the prescribed form; and
- (b) state when and where the warrant of commitment inquiry will be held; and
- (c) require the person to appear at that time and place; and
- (d) contain any information prescribed by the regulations; and
- (e) be signed by the magistrate who issues it.

52V. Service of summons

- (1) A summons to appear at a warrant of commitment inquiry issued under section 52Q(1)(a) or (2) must be served personally unless the Magistrates Court has

authorised oral service under subsection (2) or substituted service under subsection (3).

- (2) The Court may authorise oral service of a summons if the Court is satisfied that reasonable efforts to serve the order personally are unlikely to be successful.
- (3) The Court may authorise substituted service of a summons if the Court is satisfied that reasonable efforts to serve the order personally or by oral service are unlikely to be successful for any reason, including (but not limited to) the following —
 - (a) the person to be served does not have a fixed place of residence or business;
 - (b) the person to be served has a place of residence or business that is in a remote area;
 - (c) the person to be served is likely to avoid personal or oral service.
- (4) The Court is to consider making an order for oral service or substituted service of a summons to appear at a warrant of commitment inquiry in every case.

52W. Oral service or substituted service of summons

- (1) A summons to appear at a warrant of commitment inquiry is served by oral service if the person being served is informed of the following —
 - (a) that the summons has been issued;
 - (b) that the person is required to appear at a warrant of commitment inquiry and the date and place where the person is required to appear;
 - (c) a place where a written copy of the summons can be obtained.

- (2) Oral service —
 - (a) may be effected in person or by telephone, video conference or another similar method; and
 - (b) does not require the person serving the summons to be in possession of a copy of it at the time of service.
- (3) If a person to whom information is to be given under subsection (1) does not readily understand English, or the person serving the summons is not satisfied that the person understood the information, the person serving the summons is, as far as practicable, to arrange for someone else who has reached 18 years of age to give the information to the person in a way that the person can understand.
- (4) A summons to appear at a warrant of commitment inquiry is served by substituted service if the person serving the summons —
 - (a) takes the steps that the Magistrates Court has directed to bring it to the attention of the person being served; or
 - (b) takes the steps (if any) prescribed by the regulations.

52X. Summons ceases to have effect if application withdrawn

A summons to appear at a warrant of commitment inquiry ceases to have effect if the application for the warrant of commitment inquiry is withdrawn under section 52ZI.

**Subdivision 4 — Arrest warrant for appearance at warrant
of commitment inquiry**

52Y. Form of arrest warrant

An arrest warrant for an offender issued under section 52Q(1)(b) must —

- (a) be directed to all members of the Police Force; and
- (b) be in the prescribed form; and
- (c) require the person who arrests the offender to bring the offender before the Magistrates Court in accordance with section 52Z(2)(a); and
- (d) contain any information prescribed by the regulations; and
- (e) be signed by the magistrate who issues it.

52Z. Effect of arrest warrant

- (1) An arrest warrant issued under section 52Q(1)(b) is itself sufficient authority to any person to whom it is directed to act according to it.
- (2) An offender arrested under an arrest warrant issued under section 52Q(1)(b) —
 - (a) must be brought before the Magistrates Court for the warrant of commitment inquiry —
 - (i) immediately after the arrest if it is practicable to do so; and
 - (ii) in any case, subject to section 52ZB, as soon as practicable after the arrest;
 - and
 - (b) may be brought before the Court at any place where it is sitting.

- (3) A police officer must obey any warrant issued under section 52Q(1)(b) or other order or direction of the Magistrates Court.
- (4) A police officer who contravenes subsection (3) is to be dealt with under the *Police Act 1892* section 23.
- (5) To avoid doubt, an arrest warrant issued under section 52Q(1)(b) is an arrest warrant for the purposes of the definition of **arrest warrant** in the *Criminal Investigation Act 2006* section 3(1).

52ZA. Duration of arrest warrant

An arrest warrant for an offender issued under section 52Q(1)(b) —

- (a) comes into force when it is issued; and
- (b) remains in force until whichever of the following occurs first —
 - (i) the offender is brought before the Magistrates Court for the warrant of commitment inquiry under the arrest warrant;
 - (ii) the offender appears voluntarily in Court for the warrant of commitment inquiry;
 - (iii) the offender is released under section 52ZB(1)(b) or (3);
 - (iv) the application for the warrant of commitment inquiry is withdrawn under section 52ZI.

52ZB. Conditional release of arrested offender

- (1) If an offender is arrested under an arrest warrant issued under section 52Q(1)(b) and it is not practicable to bring the offender before the Magistrates Court for the

warrant of commitment inquiry immediately after the arrest (including under section 52ZJ(2)(b)), the responsible officer —

- (a) must, as soon as practicable, consider whether the offender should be released under paragraph (b); and
 - (b) may, subject to section 52ZD(1), release the offender.
- (2) The decision whether or not to release an offender under subsection (1)(b) is at the discretion of the responsible officer, having regard to the following —
 - (a) whether, if the offender is not kept in custody, the offender may fail to appear in Court in accordance with the offender's undertaking under section 52ZD;
 - (b) any other matter the responsible officer considers relevant.
- (3) The responsible officer must, subject to section 52ZD(1), release an offender arrested under an arrest warrant issued under section 52Q(1)(b) if —
 - (a) the offender has been in custody under the warrant for 24 hours; or
 - (b) at any time when the offender is in custody under the warrant, it becomes apparent that it is not practicable to bring the offender before the Court within 24 hours after the arrest (including under section 52ZJ(2)(b)).
- (4) Subsection (3) applies whether or not a decision has previously been made not to release the offender under subsection (1)(b).
- (5) The duties of a responsible officer under this section must be performed whether or not an application for

conditional release is made by or on behalf of the offender.

- (6) The *Bail Act 1982* does not apply in relation to the arrest of an offender under an arrest warrant issued under section 52Q(1)(b), except to the extent provided in section 52ZH(2).

52ZC. Responsible officer for conditional release of offender

- (1) If an offender is arrested under an arrest warrant issued under section 52Q(1)(b), the police officer who arrested the offender (the *arresting officer*) —
- (a) may, if the arresting officer is not an authorised police officer, request an authorised police officer to perform any or all of the duties in section 52ZB in relation to the offender; and
 - (b) must, if it is not practicable for the arresting officer to perform any or all of the duties in section 52ZB in relation to the offender, request an authorised police officer to perform those duties.
- (2) The *responsible officer* in relation to an offender arrested under an arrest warrant issued under section 52Q(1)(b) is —
- (a) if a request under subsection (1) has not been made when the duty is required to be performed — the arresting officer; or
 - (b) if a request under subsection (1) has been made when the duty is required to be performed — the authorised police officer to whom the request was made.

- (3) A responsible officer commits an offence if the officer, wilfully and without reasonable excuse, fails to perform any duty of the officer under section 52ZB.

Penalty for this subsection: imprisonment for 12 months, or a fine of \$1 000, or both.

52ZD. Conditional release undertaking

- (1) An offender must not be released under section 52ZB(1)(b) or (3) unless the offender has entered into a conditional release undertaking for the offender's appearance at the warrant of commitment inquiry.
- (2) A conditional release undertaking is an undertaking in writing by an offender in the prescribed form —
- (a) that the offender will appear in the Magistrates Court for the warrant of commitment inquiry at —
 - (i) the time and place specified in the undertaking; or
 - (ii) if a different time and place has been substituted by notice served personally on the offender — at that substituted time and place;
 - and
 - (b) that if the offender fails to appear in the Court at that time and place the offender will, as soon as practicable, appear in the Court at that place when the Court is sitting.
- (3) A conditional release undertaking may be entered into before any person before whom a bail undertaking may be entered into under the *Bail Act 1982* section 29.

- (4) The prescribed form for a conditional release undertaking must include an explanation of the obligations of the offender under the undertaking and the consequences of failure to comply with the undertaking.

52ZE. Duties of person before whom conditional release undertaking entered into

- (1) The person before whom a conditional release undertaking is to be entered into by an offender must, before the undertaking is entered into, either —
 - (a) read it to the offender; or
 - (b) be informed by the offender that the offender has read it; or
 - (c) if necessary, have the undertaking translated to the offender or provide the offender with a written translation of the undertaking.
- (2) The person before whom a conditional release undertaking is entered into by an offender must give the offender, or cause the offender to be given, a copy of the completed undertaking.

52ZF. Limitations on right to conditional release

If the responsible officer has decided to release an offender under section 52ZB(1)(b) or (3) and the offender has entered into a conditional release undertaking under section 52ZD, the offender is entitled to be released, subject to the following —

- (a) any requirement that the offender be in custody for some other reason;
- (b) the same limitations as apply under the *Bail Act 1982* section 12 to the right of a person granted bail under that Act to be at liberty;

- (c) the person before whom the conditional release undertaking is entered into signing a certificate in the prescribed form that the offender has a right to be released.

52ZG. Offence of failure to comply with conditional release undertaking

- (1) A person who, without reasonable excuse, fails to comply with a requirement of a conditional release undertaking mentioned in section 52ZD(2)(a) commits an offence.

Penalty for this subsection: a fine of \$2 000.

- (2) A person who fails to comply with a requirement of a conditional release undertaking mentioned in section 52ZD(2)(b) commits an offence.

Penalty for this subsection: a fine of \$2 000.

- (3) A person must not be convicted of an offence under this section in the person's absence.

52ZH. General provisions about conditional release

- (1) A conditional release undertaking for the appearance of an offender at a warrant of commitment inquiry remains in force until whichever of the following occurs first —

- (a) the offender appears in the Magistrates Court in accordance with the undertaking;
- (b) the application for the warrant of commitment inquiry is withdrawn under section 52ZI.

- (2) The *Bail Act 1982* sections 59B, 60 and 62 apply for the purposes of this Subdivision as if —

- (a) a reference to an accused were a reference to an offender; and

- (b) a reference to a bail undertaking were a reference to a conditional release undertaking; and
- (c) a reference to section 28(2)(a) or (b) of that Act were a reference to section 52ZD(2)(a) or (b) of this Act; and
- (d) a reference to release on bail or a grant of bail were a reference to conditional release under section 52ZB(1)(b) or (3); and
- (e) the penalty specified for an offence under section 62 of that Act were a fine of \$1 000.

Subdivision 5 — Miscellaneous provisions about warrant of commitment inquiry

52ZI. Withdrawal of application for warrant of commitment inquiry

- (1) The Registrar may withdraw an application under section 52N for a warrant of commitment inquiry at any time before the inquiry is held.
- (2) The Registrar must withdraw an application under section 52N for a warrant of commitment inquiry if the amount owed in respect of each of the relevant fines referred to in the application is paid or the liability to pay the amount owed in respect of each of those fines is wholly discharged under section 52H or 52I.
- (3) Notice of a withdrawal under this section must be served on —
 - (a) the Magistrates Court; and
 - (b) the offender; and
 - (c) any person named under section 52O(1)(c) in the application for the warrant of commitment inquiry; and

- (d) if an arrest warrant issued under section 52Q(1)(b) or a conditional release undertaking entered into under section 52ZD is in force in relation to the offender and the warrant of commitment inquiry when the application is withdrawn — the Commissioner of Police.

52ZJ. Appearance of offender at warrant of commitment inquiry by video link or audio link

- (1) This section applies if —
 - (a) an offender who has been arrested under an arrest warrant issued under section 52Q(1)(b) is required to be brought before the Magistrates Court under section 52Z(2); or
 - (b) an offender who is in custody for any other reason is required to appear in the Magistrates Court under a summons issued under section 52Q(1)(a).
- (2) The person in charge of the offender must ensure that the offender is brought before the Court —
 - (a) in person; or
 - (b) if there is a video link or audio link between the place where the offender is held and the Court — by means of a video link or audio link, unless the Court has ordered that the offender be brought before the Court in person.
- (3) The Court may make an order under subsection (2)(b) at any time on its own initiative or on an application by the Registrar or the offender if it is satisfied it is in the interests of justice to do so.

- (4) An audio link cannot be used under this section unless a video link is not available and cannot reasonably be made available.
- (5) When the offender appears before the Court by means of a video link or audio link, the Court may exercise any power in this Division as if the offender were personally present before it.

52ZK. Appeal

- (1) Except as provided in subsection (2), no appeal lies against an order of the Court under section 52S.
- (2) The offender may appeal under the *Magistrates Court (Civil Proceedings) Act 2004* section 40 against an order of the Magistrates Court under section 52S(1)(e) that a warrant of commitment should be issued.

52ZL. Evidence of appearance or non-appearance of offender

For the purposes of this Division, evidence that an offender did or did not appear in the Magistrates Court at a particular time and place may be given by tendering a certificate to that effect signed by an officer of the Court.

57. Part 4 Division 3E Subdivision 6 heading inserted

Before section 53 insert:

Subdivision 6 — Imprisonment under warrant of commitment

58. Section 53 amended

- (1) Delete section 53(1) and (2).
- (2) In section 53(3) after “commitment” insert:

issued under section 52S(4) in relation to a fine

- (3) Delete section 53(4).
- (4) Delete section 53(8a) to (8c).

Note: The heading to amended section 53 is to read:
Effect of warrant of commitment

59. Part 4 Division 3F inserted

After section 53 insert:

**Division 3F — Interaction of enforcement action under
this Part**

**53A. Effect of enforcement instrument or WDO on other
enforcement powers**

- (1) If an enforcement instrument (other than a licence suspension order or enforcement warrant) or a WDO is in force in relation to a fine, the Registrar must not, despite any other provision of this Part —
 - (a) make or issue another enforcement instrument in relation to the fine; or
 - (b) make an application under section 52N in relation to the fine.

- (2) If a licence suspension order is in force in relation to an offender and a fine —
- (a) a power of the Registrar under this Part to make or issue another enforcement instrument, or to make an application under section 52N, in relation to the offender and the fine is not affected; but
 - (b) the Registrar must cancel the licence suspension order as soon as practicable if —
 - (i) the Registrar issues an enforcement instrument (other than an enforcement warrant or an order to attend for work and development) in relation to the offender and the fine; or
 - (ii) the Registrar serves an order to attend for work and development on the offender in relation to the fine; or
 - (iii) the Registrar makes an application under section 52N in relation to the offender and the fine.
- (3) If an enforcement warrant is in force in relation to an offender and a fine —
- (a) a power of the Registrar under this Part to make or issue another enforcement instrument, or to make an application under section 52N, in relation to the offender and the fine is not affected; but
 - (b) the Registrar must cancel the enforcement warrant as soon as practicable if —
 - (i) the Registrar issues an enforcement instrument (other than a licence suspension order or an order to attend for work and development) in relation to the offender and the fine; or

- (ii) the Registrar serves an order to attend for work and development on the offender in relation to the fine; or
 - (iii) the Registrar makes an application under section 52N in relation to the offender and the fine.
- (4) A power under this Part to make or issue an enforcement instrument or WDO in relation to a fine is not affected by a previous enforcement instrument or WDO having been made or issued in relation to the fine and subsequently cancelled.

53B. Effect of warrant of commitment inquiry process or warrant of commitment on other enforcement powers

- (1) The Registrar must not make or issue an enforcement instrument (other than a fine expiation order) in relation to a fine if a warrant of commitment inquiry process is occurring in relation to the fine.
- (2) The Registrar must not make or issue an enforcement instrument in relation to a fine if a warrant of commitment is in force in relation to the fine.
- (3) A power under this Part to make or issue an enforcement instrument or WDO in relation to an offender and a fine is not affected by a warrant of commitment inquiry process having previously occurred in relation to the offender and the fine.

60. Section 54 replaced

Delete section 54 and insert:

54. Functions of Registrar in relation to *Service and Execution of Process Act 1992* (Commonwealth) Part 7

- (1) The Registrar is authorised to exercise the functions conferred on the Registrar as a fine enforcement officer under the *Service and Execution of Process Act 1992* (Commonwealth) Part 7.
- (2) If the Registrar receives an amount in satisfaction in whole or in part of a fine under the *Service and Execution of Process Act 1992* (Commonwealth) Part 7, the Registrar must apply the money as if it had been received from the offender in satisfaction in whole or in part of the fine.

61. Sections 55A to 55E replaced

Delete sections 55A to 55E and insert:

55A. Certain decisions of Registrar are final

A decision of the Registrar under Division 2 Subdivision 3, section 44A or Division 3D is final.

62. Section 56A amended

- (1) In section 56A delete the definitions of:
amount owed
outstanding order to pay or elect
Registrar's website

- (2) In section 56A insert in alphabetical order:

amount owed —

- (a) for 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; or
- (b) for a fine — has the meaning given in section 28(1);

outstanding order to pay or elect has the meaning given in section 56AA;

- (3) In section 56A in the definition of ***enforcement fees*** delete “Part 3 or 4” and insert:

this Act

63. Section 56AA inserted

After section 56A insert:

56AA. Outstanding orders to pay or elect

An ***outstanding order to pay or elect***, in relation to a person, means an order to pay or elect issued to the person 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 21C in respect of the person and the infringement notice to which the order relates; and
- (d) if an enforcement warrant issued under section 21A is in force in respect of the person and the infringement notice to which the order relates — 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.

64. Section 56B amended

In section 56B:

- (a) in paragraph (a) delete “is registered under section 41; and” and insert:

is an enforceable registered fine (as defined in section 28(1)); and

- (b) delete paragraph (c);
- (c) in paragraph (d) delete “or 55A”;
- (d) delete paragraphs (f) and (g).

65. Section 63 amended

- (1) In section 63(1) delete the definition of ***vehicle licensing law***.
- (2) In section 63(1) insert in alphabetical order:

bank means —

- (a) an ADI (authorised deposit-taking institution) as defined in the *Banking Act 1959* (Commonwealth) section 5(1); or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

bank account garnishee order has the meaning given in section 95M(2)(b);

earnings —

- (a) has the meaning given in the *Civil Judgments Enforcement Act 2004* section 3; but
- (b) does not include amounts of a kind prescribed by the regulations for the purposes of this paragraph;

garnishee order has the meaning given in section 95M(2);

garnishee order on earnings has the meaning given in section 95M(2)(a);

multiple payments garnishee order has the meaning given in section 95V(2)(b);

owner, in relation to a vehicle, means a person entitled to immediate possession of the vehicle;

protected bank account amount means the amount prescribed by or determined under regulations made for the purposes of section 95ZB;

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protected earnings amount, for a pay period, means the amount determined under regulations made for the purposes of section 95U(1);

relevant payer, in relation to a garnishee order on earnings, has the meaning given in section 95O(1);

single payment garnishee order has the meaning given in section 95V(2)(a);

(3) After section 63(2) insert:

- (3) A reference in this Part to a vehicle of a debtor is a reference to —
- (a) a vehicle that is licensed under the *Road Traffic (Vehicles) Act 2012* in the name of the debtor (whether or not the vehicle licence is suspended); or
 - (b) a vehicle that is not licensed under the *Road Traffic (Vehicles) Act 2012* of which the debtor is an owner.

66. Section 65 amended

In section 65:

- (a) in paragraph (b) delete “warrant; or” and insert:

warrant,
- (b) delete paragraph (c).

67. Section 68A amended

- (1) After section 68A(3) insert:
- (3A) If, when an arrangement under subsection (1) is entered into, a garnishee order has been issued to a relevant payer or bank under the warrant and has not been cancelled —
- (a) the Sheriff must serve a notice on the relevant payer or bank stating that no action is to be taken under the garnishee order until further notice; and
 - (b) for the purposes of Division 6B, the garnishee order is taken not to be in force during the period beginning when the notice is served and ending when the Sheriff serves a notice on the relevant payer or bank under subsection (4A).
- (2) In section 68A(4) delete “warrant or exercising the powers under section 55D.” and insert:
- warrant.
- (3) Delete section 68A(5A) and (5B) and insert:
- (4A) If the Sheriff cancels an arrangement made under subsection (1) and a notice under subsection (3A)(a) has been served on a relevant payer or bank as a result of that arrangement, the Sheriff must serve notice on the relevant payer or bank stating that action can again be taken under the garnishee order.

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- (4) In section 68A(6) delete “warrant, any action taken under section 55D,” and insert:

warrant

68. Section 68B amended

- (1) In section 68B(1) in the definition of *enforcement action*:

(a) after paragraph (a) insert:

(aa) serving a notice in accordance with section 78;

(b) in paragraph (d) delete “section 95F.” and insert:

section 95F;

(c) after paragraph (d) insert:

(e) issuing a garnishee order in accordance with section 95O or 95V.

- (2) In section 68B(3):

(a) in paragraph (d) delete “section 95F(3).” and insert:

section 95F(3); or

(b) after paragraph (d) insert:

- (e) if the first enforcement action is the issue of a garnishee order — by serving it on the debtor with the copy of the garnishee order required to be served under section 95O(4) or 95V(5).

69. Section 95C amended

- (1) In section 95C(1) delete “licensed in the name”.
- (2) In section 95C(5)(a) delete “holder of the vehicle licence; and” and insert:

person in whose name the vehicle is licensed or the owner of the vehicle; and

70. Section 95F amended

- (1) In section 95F(1) delete “licensed in the name”.
- (2) In section 95F(4):
- (a) in paragraph (a) delete “holder of the vehicle licence; and” and insert:

person in whose name the vehicle is licensed or the owner of the vehicle; and

(b) after paragraph (b) insert:

- (ba) if the vehicle is licensed under the *Road Traffic (Vehicles) Act 2012* when the number plates are removed — that the vehicle licence has been suspended; and

- (c) in paragraph (c) delete “the vehicle licence has been suspended and”;
- (d) in paragraph (d) after “cancellation” insert:

and disqualification

71. Section 95G amended

- (1) In section 95G(1) delete “vehicle licence suspension order in respect of the vehicle.” and insert:

vehicle licence suspension and disqualification order in respect of the vehicle and the debtor.

- (2) Delete section 95G(2) insert:

- (1A) Subsection (1) applies whether or not a vehicle licence for the vehicle is in force when the order is made.
- (2) A vehicle licence suspension and disqualification order is an order disqualifying the debtor from holding or obtaining a vehicle licence for the vehicle.

Note for this subsection:

If a vehicle licence is in force in relation to the vehicle when the order is made, the licence is suspended under the *Road Traffic (Vehicles) Act 2012* section 16(2A) while the vehicle licence suspension and disqualification order is in force.

- (3) In section 95G(4) delete “a vehicle licensing law, a vehicle licence suspension order” and insert:

the *Road Traffic (Vehicles) Act 2012*, a vehicle licence suspension and disqualification order

- (4) In section 95G(5):
- (a) in paragraph (a) delete “suspension order” and insert:

suspension and disqualification order
 - (b) in paragraph (b)(iii) delete “cancellation order” and insert:

cancellation and disqualification order
 - (c) delete “the vehicle licence suspension order” and insert:

the vehicle licence suspension and disqualification order
- (5) In section 95G(6) after “suspension” insert:
- and disqualification

Note: The heading to amended section 95G is to read:

**Vehicle licence suspension and disqualification order made when
number plates are removed**

72. Section 95H amended

- (1) In section 95H(1) delete “licensed in the name”.
- (2) In section 95H(2):
- (a) in paragraph (a) delete “licensed in the name”;
 - (b) in paragraph (c) after “cancellation” insert:

and disqualification

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- (c) delete paragraph (d) and insert:
 - (d) when the warrant ceases to be in force, the debtor holds the vehicle licence for the vehicle (whether or not the vehicle licence is suspended),

73. Section 95I amended

In section 95I(2):

- (a) in paragraph (a) delete “debtor in whose name the vehicle is licensed; or” and insert:

debtor; or

- (b) in paragraph (b) after “cancellation” insert:

and disqualification

74. Part 7 Division 6A Subdivision 4 heading amended

In the heading to Part 7 Division 6A Subdivision 4 after “**cancellation**” insert:

and disqualification

75. Section 95J amended

- (1) In section 95J(1):
- (a) in paragraph (a) delete “licensed in the name”;
 - (b) after “cancellation” insert:

and disqualification
- (2) In section 95J(2):
- (a) after “cancellation” insert:

and disqualification
 - (b) delete paragraph (a) and insert:

(a) if the vehicle is licensed under the *Road Traffic (Vehicles) Act 2012* when the order is made —
cancelling that vehicle licence; and
- (3) In section 95J(3) and (4) after “cancellation” insert:

and disqualification
- (4) In section 95J(5) delete “a vehicle licensing law, a vehicle licence cancellation order” and insert:

the *Road Traffic (Vehicles) Act 2012*, a vehicle licence
cancellation and disqualification order

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(5) In section 95J(6) after “cancellation” (each occurrence) insert:

and disqualification

(6) After section 95J(6) insert:

(6A) The Sheriff may at any time, if the Sheriff considers that it is appropriate in the circumstances, cancel a vehicle licence cancellation and disqualification order made in respect of a vehicle to the extent that the order would disqualify the debtor from holding or obtaining a vehicle licence in respect of the vehicle.

(7) Delete section 95J(7) and insert:

(7) If a vehicle licence cancellation and disqualification order is cancelled under subsection (6) or (6A), then as soon as practicable —

- (a) the Sheriff must notify the debtor of the cancellation; and
- (b) the Registrar must notify the Director General of the cancellation.

(8) In section 95J(8) after “cancellation” insert:

and disqualification

Note: The heading to amended section 95J is to read:

Vehicle licence cancellation and disqualification order

76. Part 7 Division 6B inserted

After Part 7 Division 6A insert:

Division 6B — Garnishment

Subdivision 1 — Preliminary

95L. Application

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

95M. Garnishee orders

- (1) A warrant issued in respect of a debtor entitles the Sheriff, in accordance with this Division, to issue a garnishee order in respect of the debtor and the amount owed under the warrant and any enforcement fees.
- (2) A *garnishee order* is —
 - (a) an order (a *garnishee order on earnings*) issued under section 95O that a person who pays, or is likely to pay, earnings to a debtor pay an amount or amounts of those earnings to the Sheriff; or
 - (b) an order (a *bank account garnishee order*) issued under section 95V that a bank with which a debtor has 1 or more accounts pay an amount or amounts to the Sheriff from those accounts.
- (3) A reference in this Division to a garnishee order is to the order as amended from time to time.
- (4) The Sheriff must ensure that only 1 garnishee order is in force under an enforcement warrant at any time.

95N. Duration, amendment and cancellation of garnishee order

- (1) A garnishee order —
 - (a) comes into force on the day that is 7 days after —
 - (i) for a garnishee order on earnings — the day on which a copy of it is served on the relevant payer to whom it is issued under section 95O(4); or
 - (ii) for a bank account garnishee order — the day on which a copy of it is served on the bank to which it is issued under section 95V(5);and
 - (b) is in force until whichever of the following occurs first —
 - (i) it is cancelled under subsection (2) or (4);
 - (ii) for a garnishee order on earnings — the relevant payer gives the Sheriff a notice under section 95Q(4);
 - (iii) for a single payment garnishee order — the bank gives the Sheriff a return under section 95W(1)(c);
 - (iv) for a bank account garnishee order — the bank gives the Sheriff a notice under section 95X(2).
- (2) A garnishee order is cancelled when the warrant under which it is issued ceases to be in force.
- (3) A debtor in relation to whom a garnishee order is in force may apply to the Sheriff in the approved form for the amendment or cancellation of the order.

- (4) The Sheriff may, if the Sheriff thinks fit, amend or cancel a garnishee order on an application under subsection (3) or on the Sheriff's own initiative.
- (5) If a garnishee order is amended or cancelled, notice of the amendment or cancellation must be served on —
 - (a) the debtor; and
 - (b) the relevant payer or bank to whom the order was issued.

Subdivision 2 — Garnishee orders on earnings

950. Issue of garnishee order on earnings

- (1) The Sheriff may, under a warrant issued in respect of a debtor, issue a garnishee order on earnings to a person (the ***relevant payer***) if the Sheriff is satisfied that the relevant payer pays, or is likely to pay, earnings to the debtor on the relevant payer's own behalf and not as an employee or agent of another person.
- (2) A garnishee order on earnings must —
 - (a) be in the approved form; and
 - (b) state —
 - (i) the amount owed under the warrant and any enforcement fees; and
 - (ii) the amount of the debtor's earnings for each week that is to be deducted from the debtor's earnings and paid to the Sheriff; and
 - (iii) when deductions under the order must be made; and
 - (iv) when and how amounts deducted under the order must be paid to the Sheriff; and

- (v) when and how returns under section 95P(2)(c) must be given to the Sheriff;

and

- (c) explain how the amount deducted from the debtor's earnings for a pay period is to be determined under section 95P.

- (3) A garnishee order on earnings must not include any information about —
 - (a) if it is issued under an enforcement warrant issued under Part 3 in relation to an infringement notice — the alleged offence for which the infringement notice was issued; or
 - (b) if it is issued under an enforcement warrant issued under Part 4 in relation to a fine — the offence for which the fine was imposed.
- (4) A copy of a garnishee order on earnings must be served on the debtor and the relevant payer.

95P. Compliance with garnishee order on earnings

- (1) This section applies if —
 - (a) a garnishee order on earnings issued to a relevant payer is in force in relation to a debtor; and
 - (b) earnings are payable by the relevant payer to the debtor for a period (the *pay period*).
- (2) The relevant payer must —
 - (a) deduct from the earnings payable to the debtor for the pay period an amount determined under subsection (3); and
 - (b) pay that amount to the Sheriff in accordance with the order; and

- (c) give the Sheriff a return in the approved form in accordance with the order.

Penalty for this subsection: a fine of \$2 000.

- (3) For the purposes of subsection (2)(a), the amount to be deducted is the lowest of the following —
 - (a) the amount determined by multiplying the weekly amount specified in the garnishee order under section 95O(2)(b)(ii) by the number of weeks in the pay period;
 - (b) the amount, if any, that would reduce the debtor's earnings for the pay period to the protected earnings amount;
 - (c) the amount that would result in the total amount deducted under the order for all pay periods being equal to the total amount stated in the order under section 95O(2)(b)(i).
- (4) If the debtor's earnings for the pay period are equal to or less than the protected earnings amount, the relevant payer must not deduct any amount from the earnings under subsection (2).
- (5) If the pay period is not a number of whole weeks, the number of weeks in the pay period for the purposes of subsection (3)(a) is to be determined by dividing the number of days in the pay period by 7 (rounded to 2 decimal places).
- (6) A reference in this section to a debtor's earnings for a pay period is a reference to the amount remaining after deducting any amount the relevant payer is required to withhold or deduct from the earnings under —
 - (a) the *Taxation Administration Act 1953* (Commonwealth) or another law of the Commonwealth; or

- (b) a written law (other than the *Civil Judgments Enforcement Act 2004* Part 4 Division 4).

95Q. Notices and returns to be given in relation to garnishee orders on earnings

- (1) This section applies if a garnishee order on earnings issued to a relevant payer is in force in relation to a debtor.
- (2) If the relevant payer pays earnings to the debtor for a pay period, the relevant payer must, no later than 7 days after the earnings are paid, ensure that the debtor is notified of —
- (a) the amount deducted under the garnishee order; or
 - (b) if no deduction was made — that no deduction was made under the garnishee order.

Penalty for this subsection: a fine of \$2 000.

- (3) If, in a particular month, the relevant payer does not deduct any amount from the debtor's earnings under the garnishee order, the relevant payer must give the Sheriff a return in the approved form within 7 days after the end of the month.

Penalty for this subsection: a fine of \$2 000.

- (4) If the debtor ceases to be a person to whom the relevant payer pays, or is likely to pay, earnings, the relevant payer must give the Sheriff notice of the cessation in the approved form within 14 days after the cessation.

Penalty for this subsection: a fine of \$2 000.

95R. Discharge of liability to pay debtor

If a relevant payer deducts an amount from a debtor's earnings in compliance with section 95P, the relevant

payer's liability to pay the amount to the debtor, or any person other than the Sheriff, is discharged.

95S. Records to be kept by relevant payers

- (1) A relevant payer to whom a garnishee order on earnings has been issued in relation to a debtor must keep records of —
- (a) the debtor's earnings payable by the relevant payer while the garnishee order is in force; and
 - (b) amounts deducted from the debtor's earnings and paid to the Sheriff under this Subdivision; and
 - (c) returns and notices given in accordance with this Subdivision.

Penalty for this subsection: a fine of \$2 000.

- (2) Records kept under subsection (1) must be retained for 2 years after the garnishee order on earnings ceases to be in force.

Penalty for this subsection: a fine of \$2 000.

95T. Protection of employees

- (1) If a garnishee order on earnings is issued to an employer of the debtor, the employer must not, on the ground of the issue of the order, treat the debtor less favourably than it would treat an employee whose earnings are not the subject of a garnishee order in the same circumstances or in circumstances that are not materially different.

Penalty for this subsection: a fine of \$5 000.

- (2) Subsection (3) applies if —
- (a) an employer is charged with an offence under subsection (1) that is alleged to have been committed within 6 months after the employer

was served with the garnishee order on earnings concerned; and

- (b) all of the elements of the offence are proved except the grounds for the employer's treatment of the debtor.
- (3) The onus of proving that the grounds for the employer's treatment of the debtor were not the issue of the garnishee order is on the employer.

95U. Regulations for this Subdivision

- (1) The regulations may prescribe a method for determining the protected earnings amount for a pay period for the purposes of section 95P.
- (2) Different methods may be prescribed for different classes of debtors.
- (3) The regulations may include provision for determining, in cases where a relevant payer pays earnings to a debtor otherwise than for a particular period, the period for which those earnings are taken to be paid for the purposes of this Subdivision.

Subdivision 3 — Garnishee orders on bank accounts

95V. Issue of bank account garnishee order

- (1) The Sheriff may, under a warrant issued in respect of a debtor, issue a bank account garnishee order to a bank if the Sheriff is satisfied that the debtor has an account with the bank.
- (2) A bank account garnishee order may be —
 - (a) an order (a *single payment garnishee order*) that a single payment be made to the Sheriff from money that is or may be held for the debtor in an account with the bank; or

- (b) an order (a ***multiple payments garnishee order***) that multiple payments be made to the Sheriff from money that is or may be held for the debtor in an account with the bank at times, or in circumstances, specified in the order.
- (3) A bank account garnishee order must —
 - (a) be in the approved form; and
 - (b) state —
 - (i) the amount owed under the warrant and any enforcement fees; and
 - (ii) the amount or amounts required to be deducted and paid under the order; and
 - (iii) when deductions under the order must be made; and
 - (iv) when and how amounts deducted under the order must be paid to the Sheriff; and
 - (v) when and how returns under section 95W(1)(c) or (2)(c) must be given to the Sheriff;
 - and
 - (c) explain how an amount deducted under the order is to be determined under section 95W.
- (4) A bank account garnishee order must not include any information about —
 - (a) if it is issued under an enforcement warrant issued under Part 3 in relation to an infringement notice — the alleged offence for which the infringement notice was issued; or
 - (b) if it is issued under an enforcement warrant issued under Part 4 in relation to a fine — the offence for which the fine was imposed.

- (5) A copy of a bank account garnishee order must be served on the debtor and the bank.

95W. Compliance with bank account garnishee order

- (1) If a single payment garnishee order issued to a bank is in force in relation to a debtor, the bank must, as soon as practicable after the order comes into force —
- (a) deduct the amount determined under subsection (3) from the account or accounts the debtor has with the bank; and
 - (b) pay that amount to the Sheriff in accordance with the order; and
 - (c) give the Sheriff a return in the approved form in accordance with the order.

Penalty for this subsection: a fine of \$2 000.

- (2) If a multiple payments garnishee order issued to a bank is in force in relation to a debtor, the bank must, whenever required to make a payment under the order —
- (a) deduct the amount determined under subsection (3) from the account or accounts the debtor has with the bank; and
 - (b) pay that amount to the Sheriff in accordance with the order; and
 - (c) give the Sheriff a return in the approved form in accordance with the order.

Penalty for this subsection: a fine of \$2 000.

- (3) For the purposes of subsections (1)(a) and (2)(a), the amount to be deducted is the lowest of the following —
- (a) the amount specified in the order as the amount for the relevant deduction;

- (b) the amount, if any, that would reduce the total amount held for the debtor in accounts with the bank at the time of the deduction to the protected bank account amount;
 - (c) the amount that would result in the total amount deducted under the order (including any previous deductions) being equal to the total amount stated in the order under section 95V(3)(b)(i).
- (4) If, when a deduction is required to be made under a bank account garnishee order, the total amount held for the debtor in accounts with the bank is equal to or less than the protected bank account amount, the bank must not deduct any amount under subsection (1) or (2), but is still required to give the Sheriff a return under subsection (1)(c) or (2)(c), as the case requires.
- (5) If money is held for the debtor in more than 1 account with the bank, the bank may decide the account or accounts from which to make the deduction under subsection (1) or (2).
- (6) The bank must not make a deduction under subsection (1) or (2) that would result in any of the debtor's accounts becoming overdrawn.
- (7) A deduction under this section is to be made after deducting any amount the bank is required to deduct from the account under —
 - (a) the *Taxation Administration Act 1953* (Commonwealth) or another law of the Commonwealth; or
 - (b) a written law (other than the *Civil Judgments Enforcement Act 2004* Part 4 Division 5).

95X. Notices to be given by banks

- (1) If a bank deducts an amount from a debtor's account under a bank account garnishee order, the bank must ensure that the debtor is notified of the amount deducted under the garnishee order within 7 days after the deduction is made.

Penalty for this subsection: a fine of \$2 000.

- (2) If a debtor closes all of the debtor's accounts with a bank while a bank account garnishee order issued to the bank is in force in relation to the debtor, the bank must give the Sheriff notice in the approved form within 7 days after the end of the month in which the debtor closes the account.

Penalty for this subsection: a fine of \$2 000.

95Y. Records to be kept by banks

- (1) A bank to which a bank account garnishee order has been issued in relation to a debtor must keep records of —

- (a) amounts deducted from the debtor's accounts and paid to the Sheriff under this Subdivision; and
- (b) returns and notices given in accordance with this Subdivision.

Penalty for this subsection: a fine of \$10 000.

- (2) Records kept under subsection (1) must be retained for 2 years after the bank account garnishee order ceases to be in force.

Penalty for this subsection: a fine of \$10 000.

95Z. Administration fee for deduction under bank account garnishee order

If a bank charges a debtor an amount for the administrative cost of making a deduction under a bank account garnishee order, the amount of the charge must not exceed the amount prescribed by the regulations.

Penalty: a fine of \$10 000.

95ZA. Requirements for debtor if bank account garnishee order issued

- (1) This section applies if a bank account garnishee order has been issued to a bank in relation to a debtor.
- (2) The debtor must not, with the intention of preventing the execution of the order, do any of the following —
 - (a) make a withdrawal or transfer of money from any of the debtor's accounts with the bank that results in a deduction not being able to be made under the order;
 - (b) prevent any earnings or other amount from being paid into any of the debtor's accounts with the bank;
 - (c) close any of the debtor's accounts with the bank.

Penalty for this subsection: a fine of \$2 000.

- (3) The debtor must notify the Sheriff if —
 - (a) the debtor closes all of the debtor's accounts with the bank; or
 - (b) a person who makes regular deposits of earnings or other amounts into any of the debtor's accounts with the bank discontinues those deposits.

Penalty for this subsection: a fine of \$2 000.

95ZB. Regulations for this Subdivision

- (1) The regulations may prescribe a protected bank account amount, or a method for determining a protected bank account amount, for the purposes of section 95W.
- (2) Different protected bank account amounts or methods may be prescribed for different classes of debtors.

Subdivision 4 — General provisions

95ZC. Sheriff may refund money deducted under garnishee order

- (1) A debtor may apply to the Sheriff, in accordance with the regulations, for a refund of any money —
 - (a) deducted from the debtor's earnings under a garnishee order on earnings and paid to the Sheriff; or
 - (b) deducted from the debtor's accounts with a bank under a bank account garnishee order and paid to the Sheriff.
- (2) On an application under subsection (1), the Sheriff may, if the Sheriff thinks fit, refund the amount or part of it to the debtor.

95ZD. Obtaining information relevant to garnishee order

- (1) The powers in this section can only be exercised by the Sheriff after receiving a warrant and for the purpose of determining whether to exercise a function under this Division.
- (2) The Sheriff may, in writing, request any person who the Sheriff suspects pays, or may pay, earnings to the

debtor to disclose to the Sheriff specified information about the following —

- (a) whether the person pays, or is likely to pay, earnings to the debtor;
 - (b) the debtor's earnings;
 - (c) any other information the Sheriff considers is or may be relevant to determining whether to exercise a function under this Division.
- (3) The Sheriff may, in writing, request any bank that the Sheriff suspects holds or may hold money for the debtor in an account to disclose to the Sheriff specified information about any of the following —
- (a) the debtor's accounts (if any) with the bank;
 - (b) the balance of those accounts and any payments into those accounts;
 - (c) any other information the Sheriff considers is or may be relevant to determining whether to exercise a function under this Division.
- (4) A person commits an offence if the person does not comply with a request made under subsection (2) or (3).

Penalty for this subsection: a fine of \$2 000.

- (5) A person commits an offence if the person discloses information to the Sheriff in response to a request under subsection (2) or (3) that the person knows is false or misleading in a material particular.

Penalty for this subsection: a fine of \$2 000.

95ZE. Relevant payer or bank must not disclose information

- (1) This section applies to a person who is or has been —
- (a) a relevant payer or bank to whom a garnishee order has been issued in relation to a debtor; or

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- (b) a person employed by, or performing services for, a relevant payer or bank referred to in paragraph (a).
- (2) The person must not, directly or indirectly, collect, use or disclose information about a debtor obtained because of the issue of the garnishee order, or in performing the person's duties under this Division, except —
 - (a) for the purpose of, or in connection with, performing the duties of the relevant payer or bank under this Division; or
 - (b) if it is necessary to do so in carrying on the business affairs of the relevant payer or bank.

Penalty for this subsection: a fine of \$10 000.

77. Section 96 amended

- (1) In section 96(1) delete “from the sale of property under a warrant” and insert:

recovered under a warrant

- (2) In section 96(2) after “Firstly,” insert:

if the money is recovered from the sale of property under the warrant,

- (3) In section 96(3)(a) delete “section 82; and” and insert:

section 70D; and

(4) After section 96(4) insert:

(4A) Fourthly, the proceeds are to be applied in the payment to the Registrar of the amount owed in respect of any other enforceable registered fine (as those terms are defined in section 28(1)) of the debtor.

(5) In section 96(5) delete “Fourthly,” and insert:

Fifthly,

78. Part 7A inserted

After section 99 insert:

Part 7A — Information

100. Terms used

In this Part —

alleged offender has the meaning given in section 11;

contractor has the meaning given in the *Court Security and Custodial Services Act 1999* section 3;

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

public authority means —

- (a) a department of the Public Service; or
- (b) a State agency or instrumentality; or
- (c) a court or tribunal to the extent that it is an agency for the purposes of the *Freedom of Information Act 1992*; or
- (d) a body, whether corporate or unincorporate, or the holder of an office, post or position,

established or continued for a public purpose under a written law;

relevant information means —

- (a) in relation to the Registrar — information that, in the opinion of the Registrar, is or is likely to be relevant to the performance of any function of the Registrar under this Act or another written law; or
- (b) in relation to the Sheriff — information that, in the opinion of the Sheriff, is or is likely to be relevant to the performance of any function of the Sheriff under this Act or another written law;

research means research to promote the development of criminology or corrective services.

100A. Disclosure of information to Registrar or Sheriff

- (1) The Registrar or Sheriff (the **requesting officer**) may request a public authority, contractor or electricity corporation to disclose relevant information to the requesting officer.
- (2) A request under subsection (1) —
 - (a) may relate to particular information or information of a particular kind; and
 - (b) may relate to information that may be held from time to time.
- (3) A person to whom a request under subsection (1) is made must disclose information in compliance with the request.
- (4) A person, other than a public authority, who contravenes a request made under subsection (1) is guilty of a contempt of the Magistrates Court.

100B. Disclosure of information by Registrar or Sheriff

- (1) The Minister may, from time to time, approve circumstances in which, or purposes for which, information relating to an offender or alleged offender may be disclosed by the Registrar or Sheriff to a person or class of persons in a government department or agency of the State, the Commonwealth, another State, a Territory or another country.
- (2) The Registrar or Sheriff may disclose information as approved under subsection (1).
- (3) The Registrar or Sheriff may —
 - (a) disclose information relating to offenders, alleged offenders, fines or infringement notices to a public authority or other body for use in research; or
 - (b) disclose information prescribed by the regulations in circumstances prescribed by the regulations.
- (4) The Registrar must —
 - (a) establish written procedures for the disclosure of information by the Registrar or Sheriff under this section; and
 - (b) ensure that the procedures are published on the Registrar's website.

100C. Registrar and Sheriff to have access to records of Director General

The Registrar and the Sheriff are entitled, to the extent that it is necessary or convenient for the performance of functions under this Act or another written law, to have access to and make use of the records kept by the Director General under a road law in relation to drivers' licences and vehicle licences.

100D. Regulations relating to information

The regulations may provide for the following —

- (a) the conditions subject to which information may be disclosed or accessed under this Part;
- (b) the receipt, use and storage of information disclosed or accessed under this Part;
- (c) the restriction of access to information disclosed or accessed under this Part;
- (d) the maximum period for which information disclosed or accessed under this Part may be retained;
- (e) the circumstances in which information disclosed or accessed under this Part must be destroyed.

100E. Disclosure not subject to other laws

- (1) Information may be disclosed or accessed under this Part despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed or accessed, in good faith, under this Part —
 - (a) no civil or criminal liability is incurred in respect of the disclosure or access; and
 - (b) the disclosure or access is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure or access is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

100F. Confidentiality

- (1) A person must not, directly or indirectly, collect, use or disclose information of the following kinds except as authorised under subsection (2) —

- (a) information obtained because of the person's office, position, employment or engagement for the purposes of this Act;
- (b) information disclosed to the person under section 100A or 100B.

Penalty for this subsection: a fine of \$10 000.

- (2) The collection, use or disclosure of information to which subsection (1) applies is authorised if the information is collected, used or disclosed in good faith —
- (a) for the purpose of, or in connection with, performing a function under this Act or another written law; or
 - (b) as required or allowed under this Act or another written law; or
 - (c) for the purposes of any legal proceedings arising under this Act or another written law; or
 - (d) under an order of a court or other person or body acting judicially; or
 - (e) with the written consent of the person to whom the information relates; or
 - (f) in the case of information disclosed under section 100B — for the purposes for which the information was disclosed; or
 - (g) in circumstances prescribed by the regulations.
- (3) Subsection (1) does not apply in relation to the collection, use or disclosure of statistical or other information that could not reasonably be expected to

lead to the identification of any person to whom it relates.

79. Section 101B amended

(1) In section 101B(3):

(a) in paragraph (d)(iii) delete “warrant,” and insert:

warrant; and

(b) after paragraph (d)(iii) insert:

(iv) no money has been paid in compliance with a notice served under section 78 under the warrant; and

(v) no money has been deducted in compliance with a garnishee order issued under the warrant,

(c) in paragraph (e) delete “section 47, 47A or 55D but not served, the order is to be taken as being cancelled as from that time.” and insert:

section 47 but not served, the order is to be taken as being cancelled as from that time;

(d) after paragraph (e) insert:

(f) an ongoing fine expiation order (as defined in section 28(1)) is in force in relation to the fine, the order continues in force after the appeal is made, subject to section 52J.

(2) In section 101B(4):

(a) in paragraph (a)(iii) delete “warrant,” and insert:

warrant; or

(b) after paragraph (a)(iii) insert:

(iv) money has been paid in compliance
with a notice served under section 78
under the warrant; or

(v) money has been deducted in compliance
with a garnishee order issued under the
warrant,

(c) in paragraph (c) delete “section 47, 47A or 55D” and
insert:

section 47

(3) In section 101B(5B):

(a) in paragraph (d) after “cancellation” insert:

and disqualification

(b) delete paragraph (e) and insert:

(e) the person holds the vehicle licence for the
vehicle (whether or not the vehicle licence is
suspended),

- (4) In section 101B(5C) after “cancellation” (each occurrence) insert:

and disqualification

80. Section 101C amended

In section 101C(2A):

- (a) in paragraph (a) delete “suspension order was made under section 95G or a vehicle licence cancellation order” and insert:

suspension and disqualification order was made under section 95G or a vehicle licence cancellation and disqualification order

- (b) in paragraph (b) delete “suspension order made under section 95G, or a vehicle licence cancellation order” and insert:

suspension and disqualification order made under section 95G, or a vehicle licence cancellation and disqualification order

- (c) in paragraph (c) after “suspension” insert:

and disqualification

- (d) in paragraph (d) after “cancellation” insert:

and disqualification

- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the CEO (fines enforcement) to perform a function through an officer or agent.

85. Section 108A amended

- (1) In section 108A(2)(a) delete “section 53; or” and insert:

this Act; or
- (2) In section 108A(5)(b) delete “section 41(1); or” and insert:

Part 4; or

86. Section 108 amended

- (1) In section 108(2):
 - (a) in paragraph (a)(i) delete “101;” and insert:

101 or 101AA;
 - (b) in paragraph (b) delete “applying for time to pay orders;” and insert:

for the purposes of this Act;

- (c) in paragraph (c) delete “a means test by a statutory declaration or by other means.” and insert:

this Act by a statutory declaration or by other means;

- (d) after paragraph (c) insert:

- (d) providing for offences against the regulations and prescribing penalties for those offences not exceeding a fine of \$5 000.

- (2) In section 108(3)(d) before “offender” insert:

alleged

- (3) After section 108(4)(b) insert:

- (ba) a fee for the service of a summons under Part 4
Division 3E Subdivision 3;

87. Section 109A inserted

At the end of Part 8 insert:

109A. Review of certain amendments made by *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020*

- (1) The Minister must review the operation and effectiveness of the following amendments made by the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* (the ***amending Act***), and prepare a report based on the review, as soon as

practicable after the 3rd anniversary of the day on which section 87 of the amending Act comes into operation —

- (a) the amendments to this Act made by Part 2 Divisions 2 and 3 of the amending Act;
 - (b) the amendments to the *Sentence Administration Act 2003* made by Part 3 Division 7 of the amending Act;
 - (c) the amendments to the *Sentencing Act 1995* made by sections 129 and 130 of the amending Act.
- (2) The Minister must cause the report under subsection (1) to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.
- (3) The Minister must also review the operation and effectiveness of the amendments referred to in subsection (1), and prepare a report based on the review, as soon as practicable after the 7th anniversary of the day on which section 87 of the amending Act comes into operation.
- (4) The Minister must cause the report under subsection (3) to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 7th anniversary.
- (5) The Minister must transmit a copy of a report under subsection (1) or (3) to a Clerk of a House of Parliament if —
 - (a) the report has been prepared; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.

- (6) A copy of a report transmitted to the Clerk of a House is taken to have been laid before that House.
- (7) The laying of a copy of a report that is taken to have occurred under subsection (6) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

88. Sections 120 to 124 inserted

At the end of Part 9 Division 2 insert:

120. Application of amendments

Subject to this Division, the amendments made by the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* Part 2 Division 3 apply to and in relation to —

- (a) an infringement notice whether it was issued or registered with the Registry for enforcement before, on or after the second commencement day; and
- (b) a fine whether it was imposed or registered with the Registry for enforcement before, on or after the second commencement day.

121. Time to pay orders

- (1) A time to pay order made before the second commencement day under section 27A of the former Act is, on and from the second commencement day, taken to be a time to pay order made under section 21C.
- (2) If an alleged offender has made a request under section 27A of the former Act before the second

commencement day but the Registrar has not made a decision on the request before the second commencement day, the request is, on and from the second commencement day, taken to be both —

- (a) an application for a time to pay order under section 21B; and
 - (b) if the request was under section 27A(1)(b) of the former Act — a request under section 20A(1).
- (3) A time to pay order made before the second commencement day under section 55A of the former Act is, on and from the second commencement day, taken to be a time to pay order made under section 33.
- (4) If an offender has made a request under section 55A of the former Act before the second commencement day but the Registrar has not made a decision on the request before that day, the request is, on and from that day, taken to be both —
 - (a) an application for a time to pay order under section 32C; and
 - (b) if the request was under section 55A(1)(b) of the former Act — a request under section 44A(1).

122. Enforcement warrant issued before second commencement day authorises issue of garnishee order

- (1) This section applies if an enforcement warrant issued under Part 3 or 4 is in force immediately before the second commencement day.

- (2) The Sheriff may issue a garnishee order in relation to the debtor under the warrant under section 95O or 95V even though —
- (a) Part 7 Division 6B was not in force when the warrant was issued; and
 - (b) the terms of the warrant do not refer to garnishment.
- (3) At least 28 days before issuing a garnishee order as referred to in subsection (2), the Sheriff must serve on the debtor a notice in the approved form explaining that a garnishee order can be issued under the enforcement warrant.
- (4) If a debtor is served with a notice under subsection (3), the debtor must not, with the intention of preventing the execution of any garnishee order that may be issued under the enforcement warrant, do any of the following —
- (a) make a withdrawal or transfer of money from any of the debtor's accounts with a bank that would result in a deduction not being able to be made under a garnishee order;
 - (b) prevent any earnings or other amount from being paid into any of the debtor's accounts with a bank;
 - (c) close any of the debtor's accounts with a bank.

Penalty for this subsection: a fine of \$2 000.

123. Instruments issued under provisions of former Act

An instrument of a kind specified in column 1 of an item of the Table that was made or issued before the second commencement day is, on and from that day, taken to be an instrument of the kind specified in column 2 of that item.

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Table

Item	Column 1	Column 2
1.	Licence suspension order made under — (a) section 27C of the former Act; or (b) section 68A of the former Act in relation to an enforcement warrant issued under Part 3	Licence suspension order made under section 19
2.	Licence suspension order made under — (a) section 48A, 53A or 55C of the former Act; or (b) section 68A of the former Act in relation to an enforcement warrant issued under Part 4	Licence suspension order made under section 43
3.	Enforcement warrant issued under section 55D of the former Act	Enforcement warrant issued under section 45
4.	Order to attend for work and development issued under section 47A or 55D of the former Act	Order to attend for work and development issued under section 47(1)

Item	Column 1	Column 2
5.	Vehicle licence suspension order issued under section 95G of the former Act	Vehicle licence suspension and disqualification order issued under section 95G
6.	Vehicle licence cancellation order issued under section 95J of the former Act	Vehicle licence cancellation and disqualification order issued under section 95J

124. Administrative information sharing arrangements

- (1) Any administrative arrangements made between the Registrar and the Director General for the purposes of section 10 of the former Act are, on and from the second commencement day, taken to be made for the purposes of section 100C.
- (2) If information is permitted under section 100B to be disclosed to a person with whom the Registrar had, before the second commencement day, made administrative arrangements for the purposes of section 10A of the former Act, those administrative arrangements are, on and from the second commencement day, taken to be made for the purposes of section 100B.

89. Various references to vehicles licensed in name of debtor amended

In the provisions listed in the Table delete “licensed in the name”.

Table

s. 69(1)(d)	s. 95B(1)
s. 95K(1)(a) and (b)	

Note: The heading to section 49 is to read:

Effect of work and development order

Division 4 — Amendments relating to work and development permits

90. Section 3 amended

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

work and development permit (WDP) means a permit issued under section 46D, as in force from time to time.

- (2) In section 3(1) in the definition of *work and development order* delete “time.” and insert:

time;

91. Section 28 amended

- (1) In section 28(1) insert in alphabetical order:

approved sponsor means a person in relation to whom an approval under section 46J is in force;

work and development instrument means a work and development permit or a work and development order.

- (2) In section 28(1) in the definition of ***amount owed*** paragraph (b) delete “section 51,” and insert:

section 46G, 51,

- (3) In section 28(1) in the definition of ***enforceable registered fine*** paragraph (c) delete “section 51,” and insert:

section 46G, 51,

- (4) In section 28(1) in the definition of ***enforcement instrument*** after paragraph (b) insert:

(ba) a WDP; or

- (5) In section 28(1) in the definition of ***warrant of commitment inquiry process*** delete “section 52M(2).” and insert:

section 52M(2);

92. Section 32C amended

In section 32C(3)(b) after “enforcement warrant,” insert:

WDP,

93. Section 42 amended

After section 42(5)(d) insert:

- (daa) explain the circumstances in which a WDP can be issued and how an application for a WDP can be made; and

94. Part 4 Division 3C Subdivision 1 heading inserted

Before section 46 insert:

Subdivision 1 — Preliminary

95. Part 4 Division 3C Subdivision 2 inserted

After section 46 insert:

Subdivision 2 — Work and development permits

46A. Work and development permit

A work and development permit is a permit enabling an offender to discharge the offender's liability to pay the amount owed in respect of a fine by undertaking any of the following activity —

- (a) unpaid work for, or on behalf of, an approved sponsor;
- (b) medical or mental health treatment provided under a treatment plan approved by an approved sponsor;
- (c) an educational, vocational or personal development course provided or approved by an approved sponsor;

- (d) treatment for an alcohol or drug use problem under a treatment plan provided or approved by an approved sponsor;
- (e) if the offender has not reached 25 years of age when the permit is issued — a mentoring programme provided or approved by an approved sponsor;
- (f) activity of a kind prescribed by the regulations.

46B. Eligibility for work and development permit

- (1) An offender is eligible for a WDP if the offender is experiencing hardship.
- (2) For the purposes of subsection (1), an offender is taken to be experiencing financial hardship as referred to in section 4A(1)(a) only if the offender is experiencing financial hardship to an extent that affects the offender's capacity to pay a fine.

46C. Application for work and development permit

- (1) An approved sponsor may, with the agreement of an offender, apply to the Registrar on the offender's behalf for the issue of a WDP in relation to the offender and an enforceable registered fine.
- (2) An application under subsection (1) cannot be made unless a notice of intention to enforce has been issued under section 42 in relation to the fine (whether or not the due date specified in the notice has passed).
- (3) An application under subsection (1) must —
 - (a) be in the approved form; and
 - (b) include a written assessment (an *eligibility assessment*) by the approved sponsor —
 - (i) stating the kind or kinds of hardship that the offender is experiencing (which may

be a kind of hardship referred to in
section 4A(1) or another kind of
hardship); and

- (ii) describing the information and evidence
on the basis of which the approved
sponsor considers that the offender is
experiencing hardship of that kind or
those kinds;

and

- (c) state —

- (i) the amount owed in respect of the fine;
and
- (ii) the activity of a kind referred to in
section 46A to be undertaken under the
WDP; and
- (iii) the applicable rates prescribed for the
purposes of section 46N(1) to be used to
assign a value to each part of the
activity undertaken under the WDP.

- (4) The Registrar must rely on the eligibility assessment in
an application under subsection (1) unless the Registrar
believes on reasonable grounds that it should not be
relied on.
- (5) The Registrar may, by written notice given to the
approved sponsor, require the approved sponsor to give
the Registrar any information or evidence used by the
approved sponsor for the purposes of making the
eligibility assessment within the period stated in the
notice.
- (6) If the approved sponsor does not comply with a notice
given under subsection (5), the application is taken to
be withdrawn.

46D. Issue of work and development permit

- (1) If an approved sponsor applies under section 46C for a WDP in relation to an offender and a fine, the Registrar may issue the WDP if the Registrar is satisfied that the offender is eligible for the WDP.
- (2) The Registrar must refuse to issue a WDP if the issue of the WDP would result in more than the maximum number, as prescribed by the regulations, of work and development instruments being in force in respect of the offender.
- (3) A copy of a WDP must be served on the offender and the approved sponsor.
- (4) If the Registrar refuses to issue a WDP, the Registrar must serve notice of the refusal on the approved sponsor and the offender.

46E. Form of work and development permit

- (1) A WDP issued in respect of an offender and a fine must —
 - (a) be in the approved form; and
 - (b) state —
 - (i) the amount owed in respect of the fine; and
 - (ii) the activity of a kind referred to in section 46A that is to be undertaken under the WDP; and
 - (iii) the applicable rates prescribed for the purposes of section 46N(1) to be used to assign a value to each part of the activity undertaken under the WDP.

- (2) A WDP must be issued in the terms applied for unless the approved sponsor and the offender agree otherwise.
- (3) If the activity to be undertaken under a WDP is unpaid work, the activity is cumulative on —
 - (a) any activity to be undertaken under another WDP; and
 - (b) the required hours under any WDO in force in relation to the offender; and
 - (c) any hours of community work that the offender is required to do under a community service requirement in a community order imposed under the *Sentencing Act 1995*; and
 - (d) any hours of community corrections activities that the offender is required to do under the *Sentence Administration Act 2003*.
- (4) Except to the extent provided in subsection (3), activity undertaken under a WDP can be undertaken concurrently with any other activity the offender undertakes under or for the purposes of a written law or a law of the Commonwealth.

46F. Duration of work and development permit

A WDP —

- (a) comes into force when it is issued; and
- (b) is in force until whichever of the following occurs first —
 - (i) the WDP is completed under section 46G(4);
 - (ii) the WDP is cancelled.

46G. Discharge of liability under work and development permit

- (1) If a WDP has been issued in relation to an offender and a fine, the offender's liability to pay the amount owed in respect of the fine may be discharged —
 - (a) by the offender undertaking all of the activity stated in the WDP to the satisfaction of the approved sponsor; or
 - (b) by payment of the amount owed in respect of the fine; or
 - (c) by a combination of the offender satisfactorily undertaking some of the activity stated in the WDP and paying a part of the amount owed in respect of the fine.
- (2) If the offender pays a part of the amount owed in respect of the fine while the WDP is in force, the Registrar must amend the WDP under section 46I(3) to reduce the activity to be undertaken under the WDP so that the value assigned to the activity (determined using the applicable rates stated in the WDP under section 46E(1)(b)(iii)) is equal to the amount owed after that payment.
- (3) If the offender undertakes activity stated in the WDP to the satisfaction of the approved sponsor, the amount owed in respect of the fine is reduced in accordance with the value assigned to the activity that has been undertaken using the applicable rates stated in the WDP under section 46E(1)(b)(iii).
- (4) A WDP is completed when the offender's liability to pay the amount owed in respect of the fine is wholly discharged under this section.

46H. Cancellation of work and development permit

- (1) The approved sponsor for a WDP may apply in the approved form for the cancellation of the WDP if the approved sponsor will be unable to continue to supervise the performance of the activity (the *required activity*) stated in the WDP.
- (2) The offender may apply in the approved form for the cancellation of a WDP if the offender believes that the approved sponsor will be unable to continue to supervise the performance of the required activity.
- (3) On an application under subsection (1) or (2), the Registrar must cancel the WDP.
- (4) The Registrar may cancel a WDP in force in relation to an offender on the Registrar's own initiative if the Registrar is satisfied that —
 - (a) the offender has failed, without reasonable excuse, to undertake the required activity; or
 - (b) the offender is no longer eligible for the WDP under section 46B; or
 - (c) the approved sponsor is unable to continue to supervise the required activity; or
 - (d) the approved sponsor has contravened any requirement of this Subdivision or the regulations; or
 - (e) the approved sponsor's approval has been revoked under section 46J(2); or
 - (f) any statement or information in the application for the WDP is false or misleading in a material particular; or

- (g) any information or evidence given to the Registrar in response to a notice under section 46C(5) is false or misleading in a material particular; or
 - (h) there is another good reason to cancel the WDP.
- (5) The Registrar must serve notice of the cancellation of a WDP under subsection (3) or (4) on the approved sponsor and the offender.

46I. Amendment of work and development permit

- (1) The approved sponsor for a WDP may, with the agreement of the offender, apply in the approved form to have the WDP amended.
- (2) On an application under subsection (1), the Registrar must —
 - (a) approve the amendment of the WDP; or
 - (b) refuse to approve the amendment of the WDP.
- (3) The Registrar must amend a WDP if required to do so under section 46G(2).
- (4) The Registrar must serve notice of a decision under subsection (2) or (3) on the approved sponsor and the offender.

46J. Approval of sponsors for work and development permits

- (1) The CEO (fines enforcement) may, in writing, approve a person as an approved sponsor for the purposes of this Subdivision.
- (2) The CEO (fines enforcement) may, in writing, revoke the approval of a person under subsection (1).

- (3) The CEO (fines enforcement) must establish and maintain a register of approved sponsors.
- (4) The regulations may make provision as to the form and content of the register.
- (5) The register must be published on the Registrar's website.

46K. General provisions about approved sponsors

- (1) An offender undertaking unpaid work for, or on behalf of, an approved sponsor under a WDP —
 - (a) is not to be taken to be employed by, or in a contract for services with, the approved sponsor; and
 - (b) is not an employee for the purposes of the *Industrial Relations Act 1979* or any other written law.
- (2) Section 107 does not apply in relation to an act or omission of an approved sponsor under or in connection with this Subdivision or a WDP.

46L. Guidelines for work and development permits

- (1) The Minister may issue guidelines in relation to WDPs and the administration of this Subdivision.
- (2) Without limiting subsection (1), guidelines may include provision for or in relation to the following —
 - (a) assessing whether an offender is eligible for a WDP under section 46B and the supporting information and evidence required in making that assessment;
 - (b) the application of rates prescribed for the purposes of section 46N;

- (c) applications for WDPs;
 - (d) the approval of approved sponsors under section 46J and the revocation of approvals under that section.
- (3) The Minister may at any time amend or revoke guidelines issued under this section.
- (4) Guidelines issued under this section, or an amendment or revocation under subsection (3), must be published in the manner prescribed by the regulations.
- (5) Guidelines issued under this section are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (6) If there is a conflict or inconsistency between a provision of this Act and a provision of guidelines issued under this section, the provision of this Act prevails.

46M. Guidelines to be taken into account

- (1) Guidelines issued under section 46L are intended —
 - (a) to assist the CEO (fines enforcement) and other persons in the performance of functions under this Act; and
 - (b) to provide information to approved sponsors, offenders and any person or body that may be affected by this Subdivision.
- (2) In performing a function under this Subdivision a person must take into account guidelines issued under section 46L that relate to the performance of the function.

- (3) Nothing in subsection (2) —
 - (a) derogates from the person's duty to exercise the person's discretion in a particular case; or
 - (b) precludes the person from taking into account matters not set out in guidelines; or
 - (c) requires the person to take into account guidelines that are inconsistent with the provision of this Act that confers the function.

46N. Regulations about work and development permits

- (1) The regulations must provide for the rates to be used to assign a value to each part of the activity undertaken under a WDP for the purposes of section 46G.
- (2) Different rates, or methods for determining rates, may be prescribed for different kinds of activity.
- (3) The regulations may make provision for and in relation to WDPs and approved sponsors, including by providing for the following —
 - (a) records, information and evidence required to be collected and retained by approved sponsors in relation to —
 - (i) an offender's eligibility for a WDP; and
 - (ii) activity undertaken under a WDP;
 - (b) notices and information to be given by approved sponsors to the Registrar in connection with WDPs;
 - (c) requirements for approved sponsors in relation to —
 - (i) insurance; and
 - (ii) health and safety procedures or policies.

96. Part 4 Division 3C Subdivision 3 heading inserted

Before section 47 insert:

Subdivision 3 — Work and development orders

97. Section 50 amended

After section 50(3)(a) insert:

- (aa) any unpaid work to be undertaken under a WDP; and

98. Section 55A amended

In section 55A delete “section 44A or” and insert:

section 44A, Division 3C Subdivision 2 or

99. Section 100 amended

In section 100 insert in alphabetical order:

approved sponsor has the meaning given in section 28(1);

100. Section 100A amended

In section 100A(1) delete “contractor or electricity corporation” and insert:

contractor, electricity corporation or approved sponsor

101. Section 100B amended

Before section 100B(3)(a) insert:

- (aa) disclose information about offenders or fines to approved sponsors for purposes connected with WDPs; or

102. Section 101B amended

(1) After section 101B(3)(d) insert:

- (da) a work and development permit has been issued under section 46D but not served, the permit is to be taken as being cancelled as from that time;

(2) After section 101B(4)(a) insert:

- (b) a work and development permit issued under section 46D has been served, the permit ceases to have effect;

(3) After section 101B(5)(c) insert:

- (ca) the work and development permit then has effect again;

103. Section 109B inserted

At the end of Part 8 insert:

109B. Review of Part 4 Division 3C Subdivision 2

- (1) The Minister must review the operation and effectiveness of Part 4 Division 3C Subdivision 2, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* section 103 comes into operation.
- (2) The Minister must cause the report under subsection (1) to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.
- (3) The Minister must also review the operation and effectiveness of Part 4 Division 3C Subdivision 2, and prepare a report based on the review, as soon as practicable after the 7th anniversary of the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* section 103 comes into operation.
- (4) The Minister must cause the report under subsection (3) to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 7th anniversary.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020

Part 2	Fines, Penalties and Infringement Notices Enforcement Act 1994 amended
Division 4	Amendments relating to work and development permits
s. 104	

- (5) The Minister must transmit a copy of a report under subsection (1) or (3) to a Clerk of a House of Parliament if —
 - (a) the report has been prepared; and
 - (b) the Minister is of the opinion that the House will not sit during the period of 21 days after the finalisation of the report.
- (6) A copy of a report transmitted to the Clerk of a House is taken to have been laid before that House.
- (7) The laying of a copy of a report that is taken to have occurred under subsection (6) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

104. Section 115 amended

In section 115 insert in alphabetical order:

third commencement day means the day on which the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* sections 90 to 102, 104 and 105 come into operation under section 2(1)(d) of that Act;

105. Section 120 amended

- (1) In section 120 delete “Subject to” and insert:
 - (1) Subject to

(2) At the end of section 120 insert:

- (2) Subject to this Division, the amendments made by the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* Part 2 Division 4 apply to and in relation to a fine whether it was imposed or registered with the Registry for enforcement before, on or after the third commencement day.

Part 3 — Other Acts amended

Division 1 — *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* amended

106. Act amended

This Division amends the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013*.

107. Section 95 deleted

Delete section 95.

Division 2 — *Criminal Investigation Act 2006* amended

108. Act amended

This Division amends the *Criminal Investigation Act 2006*.

109. Section 125 amended

In section 125(2)(a) delete “relevant court; or” and insert:

relevant court or, in the case of an arrest warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52Q(1)(b), released under section 52ZB of that Act; or

Division 3 — *Cross-border Justice Act 2008* amended

110. Act amended

This Division amends the *Cross-border Justice Act 2008*.

111. Section 7 amended

In section 7(1) in the definition of *non-custodial order* paragraph (a)(iii) delete “section 47 or 47A; or” and insert:

section 47; or

112. Section 120 amended

In section 120 delete the definition of *fines enforcement agency* and insert:

fines enforcement agency, of another participating jurisdiction, means —

- (a) if the jurisdiction is South Australia — the Chief Recovery Officer referred to in the *Fines Enforcement and Debt Recovery Act 2017* (South Australia) section 4; or
- (b) if the jurisdiction is the Northern Territory — the Fines Recovery Unit as defined in the *Fines and Penalties (Recovery) Act 2001* (Northern Territory) section 5;

113. Section 121 amended

In section 121(1) delete “section 41(1)” and insert:

section 32(2)(a) or 32B

114. Section 122 amended

Delete section 122(a) and insert:

- (a) cancel any order, permit or unexecuted warrant in force in relation to the fine under the Fines Enforcement Act Part 4; and

115. Section 127 amended

- (1) In section 127(1) delete “section 41(1)” and insert:

section 32(2)(a) or 32B

- (2) In section 127(2) delete “issue a warrant of commitment under the Fines Enforcement Act section 53(1)” and insert:

apply for a warrant of commitment inquiry under the Fines Enforcement Act section 52N

116. Section 130 amended

Delete section 130(2)(a) and insert:

- (a) cancel any order, permit or unexecuted warrant in force in relation to the fine under the Fines Enforcement Act Part 4; and

117. Various references to Northern Territory legislation amended

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

Table

Provision	Delete	Insert
s. 8(3)(a)	<i>Cross-border Justice Act</i>	<i>Cross-border Justice Act 2009</i>
s. 97(a)	<i>Mental Health and Related Services Act</i>	<i>Mental Health and Related Services Act 1998</i>
s. 97(b)	<i>Sentencing Act</i>	<i>Sentencing Act 1995</i>
s. 119(2)	<i>Youth Justice Act</i>	<i>Youth Justice Act 2005</i>

Division 4 — Electricity Corporations Act 2005 amended

118. Act amended

This Division amends the *Electricity Corporations Act 2005*.

119. Section 40 deleted

Delete section 40.

120. Section 72 inserted

At the end of Part 3 Division 1 Subdivision 8 insert:

72. Disclosure of information in compliance with request under *Fines, Penalties and Infringement Notices Enforcement Act 1994*

- (1) If a corporation is given a request to disclose information under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 100A, the corporation must disclose information in compliance with the request.
- (2) The information disclosed in compliance with a request referred to in subsection (1) may include the names and addresses of customers of the corporation but must not include photographs or signatures of those customers.
- (3) The disclosure of information is to be free of charge.

Division 5 — *Road Traffic (Administration) Act 2008* amended

121. Act amended

This Division amends the *Road Traffic (Administration) Act 2008*.

122. Section 13C replaced

Delete section 13C and insert:

13C. Disclosure of information in compliance with request under *Fines, Penalties and Infringement Notices Enforcement Act 1994*

- (1) If the CEO is given a request to disclose information under the *Fines, Penalties and Infringement Notices*

Enforcement Act 1994 section 100A, the CEO must disclose information in compliance with the request.

- (2) The information disclosed in compliance with a request referred to in subsection (1) may include the following —
- (a) driver's licence information;
 - (b) permit information;
 - (c) vehicle licence information.
- (3) The disclosure of information under subsection (1) is to be free of charge.

Division 6 — *Road Traffic (Vehicles) Act 2012* amended

123. Act amended

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

124. Section 5 amended

In section 5(3):

- (a) in paragraph (i) delete “suspension order” and insert:
- suspension and disqualification order
- (b) in paragraph (j) delete “cancellation order” and insert:
- cancellation and disqualification order

125. Section 16 amended

- (1) In section 16(2A) delete “suspension order” (each occurrence) and insert:

suspension and disqualification order

- (2) In section 16(4) delete “cancellation order” and insert:

cancellation and disqualification order

Division 7 — *Sentence Administration Act 2003* amended

126. Act amended

This Division amends the *Sentence Administration Act 2003*.

127. Section 78 amended

- (1) In section 78(1) in the definition of ***minimum hours requirement*** delete paragraph (c) and insert:
- (c) in relation to a WDO — means the requirement in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 50(1)(b) to do the number of hours of community corrections activities specified in the WDO (including the WDO as amended under section 50(2A) of that Act);
- (2) In section 78(2)(d) delete “fit, but they must not total more than 12 weeks.” and insert:
- fit.

Division 8 — *Sentencing Act 1995* amended

128. Act amended

This Division amends the *Sentencing Act 1995*.

129. Section 57A amended

(1) Delete section 57A(5) and insert:

- (5) The court must not make a fine enforcement (WDO) order unless the offender is personally present in court.
- (5A) In considering whether to make a fine enforcement (WDO) order, the court must take into account the following matters —
 - (a) whether the offender has the means to pay the fine, either within 28 days or pursuant to a time to pay order;
 - (b) whether the offender has any personal property that could be seized under an enforcement warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to satisfy, wholly or partly, the fine;
 - (c) the likelihood of the offender having the means to pay referred to in paragraph (a), or personal property referred to in paragraph (b), within a reasonable time after the fine is imposed;
 - (d) whether the offender is mentally and physically capable of performing the requirements of a WDO.
- (5B) The court may satisfy itself of any of the matters referred to in subsection (5A) by evidence on oath from the offender.

Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020

Part 3 Other Acts amended

Division 8 Sentencing Act 1995 amended

s. 130

- (2) In section 57A(8) delete “Sections 48 to 53 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* apply” and insert:

The Fines, Penalties and Infringement Notices Enforcement Act 1994 applies

130. Section 57B amended

In section 57B(4) delete “section 57A(5)(b) and (c),” and insert:

section 57A(5A),

131. Section 136G amended

- (1) In section 136G delete the definition of *CEO* and insert:

CEO means —

- (a) in relation to a CRO — the CEO of the department of the Public Service principally assisting the Minister in the administration of Part 7; or
 - (b) in relation to CSI or a CBO, ISO or PSO — the CEO (corrections);
- (2) In section 136G in the definition of *conditional order* delete paragraph (b) and insert:
- (aa) a CBO;
 - (b) CSI;

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