

PENALTIES AND SENTENCES AMENDMENT BILL 1994

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objective of the Bill is to amend the Act repealing the requirement to give notice under s. 182B(3) before a warrant can be issued.

Reasons for the Bill

The present requirements of s. 182B(3) imposes an onerous administrative burden at considerable cost. As only approximately one out of every 50 persons arrested for failure to pay a fine applies for a fine option order the need for the additional advice provided for in s. 182B(3) is not considered necessary.

Estimated cost for Government Implementation

There will be no cost for government.

Consultation

The agencies and persons consulted are the Department of Justice and Attorney-General, Office of the Cabinet and Litigation Reform Commission.

NOTES ON PROVISIONS

Clause 1 Short title of the Act.

Clause 2 States name of Act amended.

Clause 3 omits the present s.56(2) and inserts a new s. 56(2) to remove any doubts that the sending of the application for a fine option order and a notice informing the offender of his/her rights to apply for a fine option order is a sufficient prerequisite for a warrant to be issued.

Clause 4 omits s. 182B(3). The omission of the section removes the additional requirement for the proper officer of the court to make the offender aware of the provisions of Division 2 of Part 4 before a warrant can be issued.

Clause 5 omits s. 183(c). This section has a similar purpose to clause 4 which required the proper officer to make the offender aware of the provisions of Division 2 of Part 4.

Clause 6 omits s. 185(1)(d). This section has a similar purpose to clause 4 which required the proper officer to make the offender aware of the provisions of Division 2 of Part 4.

Clause 7 inserts a new clause 204A. This is a savings clause which provides that s.182B(3) is taken to have always been directory and that a warrant must not be taken to be invalid merely because of a failure to make a person aware of the provisions of Division 2 of Part 4. It also provides that the requirement to send the offender an application and advice as required by s.56(2) is satisfied if the application and advice are given personally or posted to the offender.