



# **State Penalties Enforcement Act 1999**

**Current as at 21 September 2012**

# Information about this reprint

This Act is reprinted as at 21 September 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

## Spelling

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Queensland

# State Penalties Enforcement Act 1999

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# State Penalties Enforcement Act 1999

[as amended by all amendments that commenced on or before 21 September 2012]

**An Act about the issue and enforcement of infringement notices, the enforcement of court ordered fines and certain court ordered debts, and for other purposes**

## **Part 1                      Preliminary**

### **1                      Short title**

This Act may be cited as the *State Penalties Enforcement Act 1999*.

### **2                      Commencement**

This Act commences on a day to be fixed by proclamation.

### **3                      Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

### **4                      Objects**

The objects of this Act include—

- (a) maintaining the integrity of fines as a viable sentencing or punitive option for offenders; and
- (b) maintaining confidence in the justice system by enhancing the way fines and other money penalties may be enforced; and

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- (c) reducing the cost to the State of enforcing fines and other money penalties.

## **5 Act has limited application to children**

- (1) This Act does not apply to a child within the meaning of the *Youth Justice Act 1992* other than to the extent it allows a child to pay a fine stated in an infringement notice for an offence in full or by instalments to an administering authority instead of being prosecuted for the offence.
- (2) However, an enforcement order, fine collection notice or warrant may not be issued under this Act against a child within the meaning of the *Youth Justice Act 1992*.

## **6 Act binds State, Commonwealth and other States**

- (1) This Act binds the State and, as far as the legislative authority of the Parliament permits, the Commonwealth and the other States.
- (2) However, an entity mentioned in subsection (1) can not be prosecuted for an offence against this Act.

# **Part 2 The State Penalties Enforcement Registry**

## **7 The State Penalties Enforcement Registry**

A State Penalties Enforcement Registry (*SPER*) is established.

## **8 Functions of SPER**

- (1) SPER has the functions conferred or imposed on it under this or another Act.

- (2) In particular, SPER has the following functions—
  - (a) collecting amounts payable to SPER under this or another Act;
  - (b) administering the making of enforcement orders;
  - (c) taking enforcement action under this Act.
- (3) The functions must be performed in accordance with the SPER charter.

## **9 The SPER charter**

The SPER charter includes the following—

- (a) maximising the collection, for victims of offences, of amounts ordered to be paid under the *Penalties and Sentences Act 1992* by way of restitution or compensation;
- (b) maximising the amount of fines and other money penalties paid before enforcement action is taken;
- (c) promoting a philosophy that community service work is for the needy in the community and not an alternative to payment of a fine for those who can afford to pay the fine;
- (d) reducing the use of imprisonment for fine default by encouraging the use of other enforcement mechanisms;
- (e) promoting public education about the obligations of offenders and the consequences of not satisfying the obligations.

## **10 Registrar and other staff of SPER**

- (1) There is to be a registrar of SPER.
- (2) The registrar and other staff of the registry are to be employed under the *Public Service Act 2008*.
- (3) Also, for enforcing this Act, the registrar may engage under a contract—

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- (a) commercial agents as enforcement officers; and
  - (b) other persons for other purposes.
- (4) Persons engaged under subsection (3) are engaged under this Act and not the *Public Service Act 2008*.
- (5) The registrar must give each enforcement officer employed or engaged by the registrar an identity card.
- (6) The identity card must—
- (a) contain a recent photograph of the enforcement officer; and
  - (b) be signed by the enforcement officer; and
  - (c) identify the person as an enforcement officer; and
  - (d) state an expiry date.
- (7) A person who ceases to be an enforcement officer must return an identity card given to the officer under subsection (5) to the registrar as soon as practicable, but within 21 days, after the person ceases to be an enforcement officer, unless the person has a reasonable excuse for not returning it in the 21 days.

Maximum penalty—40 penalty units.

## **11 Management of office**

- (1) The registrar may make or issue an enforcement order, fine collection notice or warrant under this Act.
- (2) The registrar has, for making or issuing an order or warrant under this Act, the same immunities and protection as officers of a court.
- (3) Anything done by the registrar in the name of or for SPER is taken to have been done by SPER.

## **12 Protection from liability**

- (1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence, when acting as an official.



- 
- (2) If subsection (1) prevents a civil liability attaching to an official, liability attaches instead to the State.
  - (3) In this section—  
*official* means—
    - (a) the registrar; or
    - (b) another member of the staff of SPER; or
    - (c) an enforcement officer.

## **Part 3                      Infringement notices**

### **Division 1                      Service of infringement notices**

#### **13                      Service of infringement notices—generally**

- (1) If an authorised person reasonably believes a person has committed an infringement notice offence, the authorised person may serve an infringement notice on the person for the offence.
- (2) If the infringement notice offence involves a vehicle, the infringement notice may be served under section 14.
- (3) Section 14 does not limit the ways an infringement notice may be served on a person.

#### **14                      Service of infringement notices for infringement notice offences involving vehicles**

- (1) An infringement notice for an infringement notice offence involving a vehicle may be served—
  - (a) on the owner of the vehicle; or

[s 15]

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- (b) on the person named in a known user declaration as the person who was in charge of the vehicle at the relevant time; or
  - (c) on the person named in a sold vehicle declaration as the person to whom the vehicle had been sold or otherwise disposed of before the relevant time.
- (2) If the infringement notice is to be served by post, the notice may be addressed to the person—
  - (a) for the owner of the vehicle—at the latest address of the owner in the register of vehicles kept under a registration Act; or
  - (b) for the person named in a known user declaration—at the person’s address stated in the declaration; or
  - (c) for the person named in a sold vehicle declaration—at the person’s address stated in the declaration.
- (3) Also, the infringement notice may be served by securely placing or attaching the notice, addressed to the owner, without further description, on or to the vehicle in a conspicuous position.
- (4) If the infringement notice is served under subsection (3), it is taken to have been served on the owner on the day it is placed on or attached to the vehicle.
- (5) A person must not interfere with an infringement notice placed on or attached to a vehicle unless the person is the owner or the person in charge of the vehicle at the relevant time.

Maximum penalty for subsection (5)—40 penalty units.

## **15 Infringement notices**

- (1) An infringement notice must be in the form approved by the administering authority.
- (2) The notice must state the following—
  - (a) a unique number for the notice;

- (b) the date of the notice;
- (c) in relation to the alleged offender, unless the notice is served under section 14(3)—
  - (i) the alleged offender's full name, or surname and any initial, and address; or
  - (ii) the particulars that are, under a regulation, identifying particulars for the alleged offender;
- (d) in relation to the offence, particulars that are enough to show clearly the nature of the offence, including the following—
  - (i) if the offence is one prescribed under a regulation for this paragraph—the identifying particulars prescribed under the regulation for the offence;
  - (ii) if the offence took place over a period and did not involve a vehicle—the period over which the offence was committed;
  - (iii) the place the offence was committed and, subject to subparagraph (ii), the time and date of the offence;
  - (iv) if the offence involves a vehicle—the identifying particulars prescribed under a regulation for the vehicle;
  - (v) if the offence involves an animal—the identifying particulars prescribed under a regulation for the animal;
- (e) the fine for the offence and how and where the fine may be paid;
- (f) that the alleged offender must, within 28 days after the date of the notice—
  - (i) pay the fine in full to the administering authority; or
  - (ii) make to the administering authority an election to have the matter of the offence decided in a Magistrates Court; or

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- (iii) if relevant, give to the administering authority an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration for the vehicle for the offence;
  - (g) that the notice may be withdrawn before or after the fine is paid;
  - (h) if the offence involves a vehicle, the general effect of section 17.
- (3) The infringement notice must also state—
  - (a) if the fine is at least the threshold amount—
    - (i) the alleged offender may, within 28 days after the date of the infringement notice, apply to the administering authority to pay the fine by instalments of not less than the minimum instalment; and
    - (ii) if the administering authority approves the application and the alleged offender pays the first instalment, the alleged offender may pay all remaining instalments to SPER in any way acceptable to SPER; and
  - (b) that if the alleged offender defaults, enforcement action may be taken to recover the amount, including by registering it with SPER, and additional fees may be payable.

## **16 Effect of this part on prosecution**

- (1) The fact that an infringement notice has been, or could be, served on a person for an offence, does not affect the starting or continuation of a proceeding against the person or anyone else in a court for the offence.
- (2) This part does not—
  - (a) require the serving of an infringement notice on a person for an offence, as opposed to proceeding against the person in another way; or

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- (b) limit or otherwise affect the penalty that may be imposed by a court for an offence.

## **Division 2                      Liability for infringement notice offences involving vehicles**

### **17            Liability for infringement notice offences involving vehicles**

- (1) If—
  - (a) an infringement notice offence involving a vehicle happens; and
  - (b) an infringement notice for the offence is served on the person who is the owner of the vehicle at the time of the offence;

the owner is taken to have committed the offence even though the actual offender may have been someone else.

- (2) If the actual offender is someone else, subsection (1) does not affect the liability of the actual offender, but—
  - (a) the owner and the actual offender can not both be punished for the offence; and
  - (b) if a fine is paid or a penalty is imposed on one of them for the offence, a further penalty must not be imposed on or recovered from the other person for the offence.
- (3) However, the owner must not be taken under subsection (1) to have committed the offence if, within 28 days after the date of an infringement notice or service of a summons for the offence, the owner makes and gives to the administering authority an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration for the vehicle for the offence.
- (4) The declaration must be made by—
  - (a) if the owner is an individual—the owner; or

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- (b) if the owner is a corporation—an executive officer of the corporation or the responsible operator.
- (5) A declaration by an executive officer of a corporation must be under the common seal of the corporation.

## **18 Effect of illegal user declaration**

- (1) This section applies if—
  - (a) an infringement notice offence involving a vehicle happens; and
  - (b) an infringement notice for the offence is served on the person who is the owner of the vehicle at the relevant time; and
  - (c) the person makes and gives to the administering authority an illegal user declaration for the vehicle.
- (2) In a proceeding for the offence against the owner, a court must not find the owner guilty of the offence if it is satisfied, whether on the statements contained in the declaration or otherwise, the vehicle was stolen or illegally taken at the relevant time.

## **19 Effect of known user declaration**

- (1) This section applies if—
  - (a) an infringement notice offence involving a vehicle happens; and
  - (b) an infringement notice for the offence is served on the person who is the owner of the vehicle at the relevant time; and
  - (c) the person makes and gives to the administering authority a known user declaration for the vehicle.
- (2) This section and section 17 apply as if the person named in the declaration as the person in charge of the vehicle at the relevant time (the *user*) were the owner of the vehicle at that time.

- (3) A proceeding for the offence may be started against the user only if a copy of the declaration has been served on the user.
- (4) In a proceeding for the offence against the user, the declaration is evidence that the user was in charge of the vehicle at the relevant time.
- (5) In a proceeding for the offence against the owner mentioned in subsection (1)(b), a court must not find the owner guilty of the offence if it is satisfied, whether on the statements contained in the declaration or otherwise, the owner was not in charge of the vehicle at the relevant time.

## 20 Effect of sold vehicle declaration

- (1) This section applies if—
  - (a) an infringement notice offence involving a vehicle happens; and
  - (b) an infringement notice for the offence is served on the person who is the owner of the vehicle at the relevant time; and
  - (c) the person makes and gives to the administering authority a sold vehicle declaration for the vehicle.
- (2) This section and section 17 apply as if the person named in the declaration as the person to whom the vehicle was sold or otherwise disposed of (the *buyer*) were the owner of the vehicle from the time of the sale or disposal.
- (3) A proceeding for the offence may be started against the buyer only if a copy of the declaration has been served on the buyer.
- (4) In a proceeding for the offence against the buyer, the declaration is evidence that the buyer was the owner of the vehicle at the relevant time.
- (5) In a proceeding for the offence against the owner mentioned in subsection (1)(b), a court must not find the owner guilty of the offence if it is satisfied, whether on the statements contained in the declaration or otherwise, the owner had sold

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or disposed of the vehicle before the relevant time and was not in charge of the vehicle at that time.

## **21 Effect of unknown user declaration**

- (1) This section applies if—
  - (a) an infringement notice offence involving a vehicle happens; and
  - (b) an infringement notice for the offence is served on the person who is the owner of the vehicle at the relevant time; and
  - (c) the owner makes and gives to the administering authority an unknown user declaration for the vehicle.
- (2) In a proceeding for the offence against the owner, a court must not find the owner guilty of the offence if it is satisfied, whether on the statements contained in the declaration or otherwise—
  - (a) that—
    - (i) if the owner is an individual—the owner was not in charge of the vehicle at the relevant time; or
    - (ii) if the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the relevant time; and
  - (b) that the inquiries made to find out the name and address of the person who was in charge of the vehicle at the relevant time—
    - (i) were reasonable in the circumstances; and
    - (ii) were carried out with appropriate diligence.



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## **Division 3                      Obligations and options under infringement notices**

### **22            Ways alleged offender may deal with infringement notice**

- (1) If an infringement notice is served on an alleged offender for an offence, the alleged offender must, within 28 days after the date of the infringement notice—
  - (a) pay the fine in full to the administering authority; or
  - (b) make to the administering authority an election to have the matter of the offence decided in a Magistrates Court; or
  - (c) if relevant, give to the administering authority an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration for the vehicle for the offence.
- (2) Also, if the fine is at least the threshold amount, the alleged offender may, within 28 days after the date of the infringement notice, apply to the administering authority to pay the fine by instalments.

### **23            Application to pay fine by instalments**

- (1) This section applies if—
  - (a) an alleged offender is served with an infringement notice for an offence; and
  - (b) the fine for the offence is at least the threshold amount.
- (2) Within 28 days after the date of the infringement notice, the alleged offender may apply to the administering authority for approval to pay the fine by instalments of not less than the minimum instalment.
- (3) The application must be made in—
  - (a) the approved form; or
  - (b) another way acceptable to the administering authority.

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*Examples of other ways an application may be made that may be acceptable to the administering authority—*

- by telephone
  - by use of the internet
- (4) The application must be accompanied by the first instalment, unless the application authorises the payment of the instalment by direct debit from an account the person holds with a financial institution.
  - (5) The administering authority must approve the application if—
    - (a) the application complies with this section; and
    - (b) the administering authority is satisfied the application was made by the alleged offender.
  - (6) If the administering authority approves the application, the alleged offender may pay all remaining instalments to SPER in any way acceptable to SPER.
  - (7) The administering authority must, at the time the alleged offender makes the application, inform the alleged offender of the consequences of failing to pay the instalments.
  - (8) Subsection (4) only requires an administering authority to accept payment of an instalment by direct debit if the administering authority is capable of accepting it.

## **24 Registration of instalment payments for infringement notices**

- (1) If an administering authority approves an application to pay an infringement notice fine by instalments, the administering authority must give to SPER, for registration, the particulars that are prescribed under a regulation of the offence to which the application relates and of the unpaid amount.
- (2) No registration fee is payable for registering the particulars.
- (3) The registrar must register the particulars, or the amended particulars given under subsection (6), as soon as practicable after receiving them.
- (4) On registration—

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- (a) SPER becomes responsible for the collection of, and may collect, the unpaid amount; and
  - (b) the registrar must give to the person an instalment payment notice.
- (4A) The registrar may, if satisfied that it is appropriate, allow the unpaid amount to be paid by stated instalments of less than the minimum instalment.
- (5) SPER may retain out of each instalment received a management fee prescribed under a regulation.
  - (6) An administering authority may give to SPER for registration amended particulars mentioned in subsection (1).
  - (7) If amended particulars are given and an instalment payment notice for different particulars has already been given to the person, a fresh instalment payment notice must be given to the person.

## **25 Alleged offender who pays can not be prosecuted**

- (1) The alleged offender must not be prosecuted in a court for an infringement notice offence if the alleged offender pays the fine as required by the infringement notice, including by instalments.
- (2) Subsection (1) applies even though more than 1 infringement notice has been served on the alleged offender for the offence.

*Editor's note—*

For the effect of a dishonoured cheque on payment of a fine, see section 150 (Dishonoured cheques etc.).

- (3) This section is subject to section 28.

## **26 When alleged offender can not elect to have offence decided by court**

- (1) This section applies if a person served with an infringement notice for an offence—
  - (a) pays the fine for the offence to the administering

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authority; or

- (b) applies to the administering authority to pay the fine for the offence by instalments.
- (2) The person may not elect to have the matter decided by a Magistrates Court.

## **27 When infringement notice offence is to be decided by court**

- (1) If, within 28 days after the date of an infringement notice, an alleged offender—
- (a) elects under section 22(1)(b) to have the matter of the offence decided by a Magistrates Court; or
  - (b) takes no action under section 22;
- a proceeding for the offence may be started under the *Justices Act 1886*.
- (2) Subsection (1)(b) does not prevent the administering authority from giving SPER prescribed particulars of the offence for registration under part 4.

## **Division 4 Withdrawal and re-issue of infringement notice**

### **28 Administering authority may withdraw infringement notice**

- (1) An administering authority may withdraw an infringement notice at any time before the fine is paid or otherwise discharged under this Act.
- (2) For the withdrawal to be effective, the administering authority must—
- (a) serve on the alleged offender a withdrawal notice in the approved form; and

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- (b) repay to the alleged offender any amount paid to the administering authority for the offence; and
  - (c) if prescribed particulars of the infringement notice offence are registered under part 4, give to SPER a copy of the withdrawal notice.
- (3) On complying with subsection (2)—
- (a) this Act, other than this part, stops applying to the infringement notice offence; and
  - (b) a proceeding for the offence may be taken against any person (including the alleged offender) as if the notice had not been served on the alleged offender.
- (4) No compensation is payable to a person because of the administering authority's refusal to withdraw an infringement notice.

## **29 Cancellation of registration on withdrawal of infringement notice**

- (1) If an administering authority gives to SPER a copy of a withdrawal notice under section 28 for prescribed particulars of an infringement notice offence that are registered under part 4—
- (a) the registrar must, as soon as practicable after receiving the notice—
    - (i) cancel the registration of the particulars and any enforcement order made because of the registration; and
    - (ii) refund to the person any amount paid to SPER by the person for the offence; and
  - (b) the administering authority must refund to the person any amount paid to the administering authority; and
  - (c) if—
    - (i) an enforcement order has been made against the person; and

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- (ii) the person has performed community service for the offence under a fine option order under this Act;

the administering authority must pay to the person, as compensation for the time spent performing community service, an amount worked out at the relevant cut-out rate for the order, rounded down to the nearest whole dollar.

- (2) The person is not entitled to compensation for performing community service other than compensation under subsection (1)(c).

### **30 Application to cancel infringement notice for mistake of fact**

- (1) This section applies to an infringement notice for which a default certificate for the relevant infringement notice offence has been given to SPER for registration under section 33(1).
- (2) If the registrar is satisfied—
  - (a) a person has been incorrectly named in the infringement notice as the alleged offender for the relevant infringement notice offence because of a mistake of fact or the misuse of the name and other particulars of the person named in the infringement notice; and
  - (b) the administering authority has refused to withdraw the relevant infringement notice;the registrar may apply to a Magistrates Court for an order cancelling the infringement notice.
- (3) The court may cancel or refuse to cancel the infringement notice.
- (4) The court may decide an application under subsection (2) on written materials in the absence of a party if the court considers it appropriate.

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### **31 Effect of cancellation of infringement notice**

- (1) This section applies if an infringement notice is withdrawn under section 28 or cancelled under section 30.
- (2) If, because of the infringement notice, demerit points have been allocated against the alleged offender for an infringement notice offence under the *Nature Conservation Act 1992* or another law, prescribed under a regulation, that provides for the allocation of demerit points—
  - (a) the demerit points for the offence are cancelled; and
  - (b) the relevant administering authority must make a note on any record it keeps in relation to the person clearly indicating that the demerit points allocated against the person have been cancelled.
- (3) Without limiting subsection (2), if, because of the infringement notice, demerit points have been allocated against the alleged offender's traffic history for an infringement notice offence under the *Transport Operations (Road Use Management) Act 1995*—
  - (a) the demerit points for the offence are cancelled; and
  - (b) the chief executive of the department within which that Act is administered must remove the record of the allocation of the demerit points from the alleged offender's traffic history.
- (4) Further, if, because of the infringement notice, a licence, permit or other authority has been suspended or cancelled, the suspension or cancellation stops having effect, unless the person's licence, permit or authority would still be suspended, cancelled or no longer in force for another reason.

### **32 Proceedings after cancellation of infringement notice**

- (1) This section applies if an infringement notice is withdrawn under section 28 or cancelled under section 30.
- (2) If the infringement notice is withdrawn or cancelled and the name of the actual offender is known, nothing in this or any other Act prevents the administering authority issuing an

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infringement notice against the actual offender or starting a proceeding in a court for the offence against the actual offender.

- (3) However, the period of limitation within which a proceeding for the offence may be started against the actual offender starts on the day the infringement notice is withdrawn or cancelled.
- (4) Subsection (3) provides some other time limit for making complaint for the purposes of the *Justices Act 1886*, section 52.

## **Part 4                      Enforcement orders**

### **Division 1                      Default commences enforcement process**

#### **33                      Default by person served with infringement notice**

- (1) If a person served with an infringement notice has not, within 28 days after the date of the infringement notice—
  - (a) paid the fine in full to the administering authority; or
  - (b) applied to the administering authority to pay the fine by instalments; or
  - (c) made to the administering authority an election to have the matter of the offence decided in a Magistrates Court; or
  - (d) if relevant, given to the administering authority an illegal user declaration, a known or unknown user declaration or a sold vehicle declaration for the vehicle for the offence;



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the administering authority may give to SPER for registration a certificate (*default certificate*) for the relevant infringement notice offence.

- (2) For subsection (1)(c), an election may be made—
- (a) in the approved form; or
  - (b) in another way acceptable to the administering authority.

*Examples of other ways an election may be made that may be acceptable to the administering authority—*

- by telephone
  - by use of the internet
- (3) A default certificate must not be given to the registrar after the end of the time within which a person may start a prosecution for the offence, and if given, must not be registered.
- (4) A default certificate given under subsection (1) by an administering authority that is entitled under an Act to retain the amount of any fine paid to it must be accompanied by the registration fee.
- (5) The registrar must register the default certificate as soon as practicable after it is received.
- (6) An authorised person may give an amended default certificate to SPER, for registration, if amendment of an earlier certificate is necessary because of error, the dishonour of a cheque, or for another reason.
- (7) No fee is payable for registering an amended default certificate.

### **34 Default in paying fine, penalty or other amount under court order**

- (1) This section applies to any of the following orders made by a court—
- (a) an order fining a person for an offence;

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- (b) an order under the *Penalties and Sentences Act 1992*, section 33B(1) that an amount be paid on the forfeiture of a recognisance;
  - (c) an order that a person pay to someone else an amount by way of restitution or compensation under the *Penalties and Sentences Act 1992*, section 35(1);
  - (d) an order that a person pay a penalty mentioned in the *Penalties and Sentences Act 1992*, section 182A or 185;
  - (e) an order under the *Bail Act 1980*, section 32(1) or 32A(1) that an amount be paid on the forfeiture of an undertaking;
  - (f) an order under the *Justices Act 1886*, section 161A that an amount be recoverable by execution or that details of the amount be registered under this Act;
  - (g) an order made before 27 November 2000 that a person pay an amount under the *Crown Proceedings Act 1980*, section 13 or 14;
  - (h) an order mentioned in the *Industrial Relations Act 1999*, section 400(1) or 408H(1).
- (2) Subsection (1)(a) to (f) or (h) applies to an order whether made before or after the commencement of this section.
- (2A) At any time after the order is made, if all or part of the fine or other amount is unpaid, the court registrar may give to SPER, for registration, the prescribed particulars of the unpaid amount.

*Note—*

See also the *Penalties and Sentences Act 1992*, section 179F, the *Police Powers and Responsibilities Act 2000*, sections 115 and 781 and the *Victims of Crime Assistance Act 2009*, sections 120 and 193.

- (2B) However, subsection (2A) does not apply to an unpaid amount under an order mentioned in subsection (1)(d) or (f) if, at the time the court makes the order, the court can not order that payment of the unpaid amount can be satisfied by imprisoning the person for a period.

- (3) The registrar must register the particulars as soon as practicable after receiving them.
- (4) Also, the registrar may issue an enforcement order, an enforcement warrant or a fine collection notice against the person concerned for the unpaid amount.
- (5) Subsection (2) applies unless the person is ordered to be imprisoned under the *Penalties and Sentences Act 1992*, section 39 or 185A.

### **35 Effect of registration under this division**

- (1) This section applies if the registrar registers a default certificate under section 33 or prescribed particulars under section 34.
- (2) On registration of the default certificate or particular—
  - (a) if the amount is registered because of a default certificate, the amount unpaid is increased by the amount of the registration fee; and
  - (b) SPER becomes responsible for the collection of, and may collect, the unpaid amount; and
  - (c) if the amount is registered because of a default certificate, a proceeding against the person for the offence may be started in a court only under this part.
- (3) In this section—

*amount unpaid*, for an infringement notice offence involving a vehicle, includes the cost of establishing ownership of the vehicle.

### **36 Default in paying instalment**

If a person served with an instalment payment notice fails to pay an instalment under the notice within the time allowed, the registrar may cancel the instalment payment notice without notice to the person.

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### **37 Effect of cancellation of instalment payment notice**

On the cancellation of an instalment payment notice under this division, the registrar must—

- (a) increase the unpaid amount to which the notice relates by the amount of the registration fee; and
- (b) issue to the person an enforcement order for the total of the unpaid amount.

## **Division 2 Enforcement orders**

### **38 Issue of enforcement order**

- (1) This section applies if—
  - (a) the registrar registers a default certificate for a person; or
  - (b) this Act expressly authorises the registrar to issue an enforcement order against a person.
- (2) The registrar must, in writing, order the person (*enforcement debtor*) to pay the amount stated in the order (*enforcement order*) to SPER within 28 days after the date of the order.
- (3) The amount stated in an enforcement order must be—
  - (a) the amount that is registered as the unpaid amount for an offence; or
  - (b) the amount for which the registrar is expressly authorised to issue the order.
- (4) The enforcement order may be made in the absence of, and without notice to, the enforcement debtor.

### **40 Service of enforcement order**

The registrar may serve an enforcement order on a person personally or by sending it by ordinary post to—

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- (a) for an individual—the address of the place of residence or business of the person last known to SPER; or
  - (b) for a corporation—the head office, a registered office or a principal office of the corporation.

## **Division 3                      Obligations and options under enforcement order**

### **41            Ways enforcement debtor may deal with enforcement order**

If an enforcement order is served on an enforcement debtor for an amount, the enforcement debtor must, within 28 days after the date of the enforcement order—

- (a) pay the amount stated in the order in full to SPER; or
- (b) apply to SPER, in the approved form or in another way acceptable to SPER, to pay the amount by instalments of not less than the minimum instalment; or
- (c) if no fine option order has been made for the amount—apply to SPER for conversion of the amount to hours of unpaid community service under a fine option order; or
- (d) if the order relates to an infringement notice offence—make to SPER an election to have the matter of the offence decided in a Magistrates Court.

### **42            Application to pay by instalments**

- (1) Within 28 days after the date of an enforcement order, the enforcement debtor may apply to SPER for approval to pay the amount stated in the order by instalments.
- (2) The application must be made—
  - (a) in the approved form; or
  - (b) in another way acceptable to SPER.

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*Examples of other ways an application may be made that may be acceptable to SPER—*

- by telephone
  - by use of the internet
- (3) The enforcement debtor must, at the time of making the application, be informed by SPER of the consequences of failing to pay the account within the time allowed, including by instalments.
  - (4) If the registrar is satisfied the application was made by the enforcement debtor, the registrar may allow the amount to be paid by stated instalments of not less than the minimum instalment.
  - (5) Despite subsection (4), the registrar may, if satisfied exceptional circumstances exist, allow the amount to be paid by stated instalments of less than the minimum instalment.
  - (6) The registrar must give the enforcement debtor notice of the decision.
  - (7) If the registrar decides to allow payment of the amount by instalments, the registrar must also give the enforcement debtor an instalment payment notice for the amount.

#### **43 Application for fine option order**

- (1) Within 28 days after the date of an enforcement order, the enforcement debtor may, subject to section 44, apply to SPER in the approved form for conversion of the amount stated in the order to hours of unpaid community service under a fine option order.
- (2) The approved form provided by SPER for subsection (1) must include a statement of the consequences of not complying with a fine option order.
- (3) An application under this section may also be made by telephone.
- (4) If the enforcement debtor applies by telephone, SPER must explain to the enforcement debtor the consequences of not

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complying with a fine option order and record the fact that the consequences have been explained.

#### **44 When application for fine option order may not be made**

- (1) An enforcement debtor can not apply for a fine option order—
  - (a) if the enforcement debtor has contravened a previous fine option order for the same offence; or
  - (b) after the issue of an arrest and imprisonment warrant for the amount stated in the enforcement order.
- (2) Also, an enforcement debtor can not apply for a fine option order if the enforcement debtor has previously applied for and been refused a fine option order for the same offence on the ground that the person could pay the fine.
- (3) If a person makes an application despite subsection (1), SPER must not accept the application.
- (4) Also, if a person makes an application despite subsection (2), SPER must not accept the application unless SPER is satisfied the person's financial position has become significantly worse.
- (5) If SPER does not accept an application because of this section, SPER must inform the applicant that SPER can not make a fine option order for the person because of this section.

#### **45 No fine option order if SPER decides applicant can pay**

- (1) If, after considering an application for a fine option order, SPER decides the applicant can pay the total amount unpaid, including by instalments or otherwise, SPER must reject the application.
- (2) SPER must inform the applicant of the decision and the reasons for the decision.

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#### **46 Fine option order only for unpaid fine**

- (1) A fine option order can only be made for—
  - (a) a fine imposed by a court or an infringement notice fine; and
  - (b) fees or costs payable under this Act.
- (2) To remove any doubt, it is declared that a fine option order cannot be made for an amount ordered to be paid under the *Penalties and Sentences Act 1992* by way of restitution or compensation.

#### **47 If SPER accepts application for fine option order**

- (1) If SPER accepts an application for a fine option order, SPER must, as soon as reasonably practicable, refer the application to the chief executive (corrective services) for a decision about whether the enforcement debtor is suitable for performing community service under a fine option order.
- (2) SPER must give to the enforcement debtor notice of the referral and a copy of any information used to make the decision.
- (3) The notice must state—
  - (a) the purpose of the referral is for enabling the chief executive (corrective services) to decide whether the enforcement debtor is suitable for performing community service under a fine option order; and
  - (b) the enforcement debtor must attend the corrective services office most convenient to the enforcement debtor, unless the chief executive (corrective services) decides to assess the enforcement debtor's suitability by telephone.

#### **48 Assessment of suitability for fine option order**

- (1) This section applies if SPER refers an application for a fine option order to the chief executive (corrective services) under section 47.



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- (2) Unless the chief executive (corrective services) decides to assess the person's suitability by telephone, the enforcement debtor must attend the corrective services office most convenient to the enforcement debtor for assessment.
  - (3) The chief executive (corrective services) must decide whether the enforcement debtor is suitable for performing community service under a fine option order.
  - (4) Without limiting the matters the chief executive (corrective services) may take into account under subsection (3), an enforcement debtor is taken to be not suitable for performing community service if the enforcement debtor has breached a community service order in the previous 12 months.
  - (5) If the chief executive (corrective services) decides the enforcement debtor is not suitable for performing community service under a fine option order, that chief executive must give the enforcement debtor written notice—

- (a) of the decision; and
- (b) if the time for taking other action under the enforcement order has not ended—that the enforcement debtor may take the other action within the time available or, if the time available is less than 7 days, within 7 days; and

*Editor's note—*

For the other action the enforcement debtor may take, see section 41 (Ways enforcement debtor may deal with enforcement order).

- (c) if the time for taking other action under the enforcement order has ended—that the enforcement debtor may, within 7 days after the enforcement debtor is given notice of the decision, take the other action.
- (6) The chief executive (corrective services) must also give SPER notice of the decision.
- (7) Subsection (5)(b) and (c) apply, even though the time for taking the action ends more than 28 days after the date of the enforcement order.

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#### **49 If enforcement debtor is suitable for fine option order**

- (1) If the chief executive (corrective services) decides an enforcement debtor is suitable for performing community service under a fine option order, that chief executive must give SPER notice of—
  - (a) the decision; and
  - (b) the number of hours of unpaid community service the enforcement debtor must perform to satisfy the unpaid amount stated in the enforcement order; and
  - (c) the supervising corrective services office for the order; and
  - (d) when and where the enforcement debtor must report for performing the community service.
- (2) For subsection (1)(b), the number of hours of unpaid community service to be performed is the number worked out by dividing the unpaid amount by the cut-out rate for a fine option order, rounded down.

#### **50 Making and registration of fine option order**

- (1) If the chief executive (corrective services) informs SPER an enforcement debtor is suitable for performing community service under a fine option order, the registrar must make a fine option order for the enforcement debtor.
- (2) The registrar must—
  - (a) register the fine option order as soon as practicable after it is made; and
  - (b) give to the enforcement debtor notice of the making of the fine option order and its terms.
- (3) The fine option order—
  - (a) takes effect on its registration; and
  - (b) suspends the enforcement order so far as it requires the payment of the unpaid amount stated in the order.

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## **51 Election for court hearing**

- (1) If, within 28 days after the date of an enforcement order made against an enforcement debtor for an infringement notice offence for which the fine is unpaid, the enforcement debtor—
  - (a) elects under the order to have the matter of the offence decided in a Magistrates Court; or
  - (b) takes no action under section 42 or 43;a proceeding for the offence may be started under the *Justices Act 1886*.
- (2) If either of the following happens, any enforcement order for the offence stops having effect—
  - (a) the enforcement debtor elects under subsection (1)(a) to have the matter of the offence decided in a Magistrates Court;
  - (b) the enforcement debtor is granted a rehearing of the complaint for the offence in a Magistrates Court under the *Justices Act 1886*, section 142.
- (3) Also, if a proceeding against the enforcement debtor for the offence is reopened under the *Justices Act 1886*, section 147A, any enforcement order for the offence stops having effect.
- (4) The registrar must notify the enforcement debtor and the relevant administering authority of the effect of subsection (2) or (3).
- (5) The notification under subsection (4) must be given as soon as practicable after the registrar knows that the enforcement order stops having effect because of this section.

## **Division 4 Default after enforcement order**

### **52 Default after time to pay**

- (1) This section applies if an enforcement debtor—

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- (a) fails to pay an amount stated in an enforcement order within 28 days after the date of the order; or
  - (b) fails to pay an amount stated in an instalment payment notice issued under section 42 in accordance with the notice.
- (2) The registrar may issue an enforcement warrant, a fine collection notice or an arrest and imprisonment warrant for the enforcement debtor for the balance of the unpaid amount stated in the enforcement order or instalment payment notice.
  - (3) Also, if the failure relates to an instalment payment notice, the registrar may cancel the instalment payment notice without notice to the enforcement debtor.
  - (4) If the registrar decides to issue an arrest and imprisonment warrant, the warrant must be for the arrest and imprisonment of the enforcement debtor for the period stated in the warrant worked out for the unpaid amount under section 52A.

## **52A Working out period of imprisonment for arrest and imprisonment warrant**

- (1) The period of imprisonment that may be stated in an arrest and imprisonment warrant for an amount ordered to be paid by a court must be the period worked out by dividing the amount stated in the warrant, less any enforcement or administrative fees added by SPER, by the relevant cut-out rate for a court order rounded down to the nearest whole number and expressed as a number of days.
- (2) The period of imprisonment that may be stated in an arrest and imprisonment warrant for an infringement notice offence must be the period worked out by dividing the amount stated in the warrant, less any enforcement or administrative fees added by SPER, by the cut-out rate for an infringement notice offence, rounded down to the nearest whole number and expressed as a number of days.
- (3) However, the maximum period that may be stated in an arrest and imprisonment warrant for an amount a surety must pay

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under the *Bail Act 1980* or the *Penalties and Sentences Act 1992* must not be more than 2 years.

### **53 Breach of fine option order**

- (1) This section applies if an authorised corrective services officer gives to SPER a fine option order breach notice for an amount stated in an enforcement order.
- (2) The registrar must register the notice as soon as practicable after it is received.

## **Division 5 Effect of appeal on enforcement order**

### **54 Effect of appeal on enforcement order**

- (1) This section applies if, after an enforcement order is made for a penalty imposed by a court for an offence, the enforcement debtor appeals against the conviction or sentence for the offence.
- (2) The appeal suspends the enforcement order.
- (3) If the appeal is upheld, the registrar must refund to the enforcement debtor any amount paid to SPER for the offence.
- (4) If the appeal is dismissed, the suspension of the enforcement order is lifted and the registrar may continue to enforce the order.
- (5) As soon as the registrar becomes aware of the appeal mentioned in subsection (1), the registrar must ensure that any steps taken under this Act to enforce the enforcement order are discontinued immediately and no further action is taken until the appeal is decided.

### **54A Effect of appeal on enforcement order for offender levy**

- (1) This section applies if after an enforcement order is made for an offender levy, the enforcement debtor appeals against all of

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the convictions that resulted in the imposition of the offender levy.

- (2) The appeals suspend the enforcement order made for the offender levy.
- (3) If all convictions are quashed, the registrar must refund to the enforcement debtor any amount paid to SPER for the levy.
- (4) Otherwise, the suspension of the enforcement order is lifted and the registrar may continue to enforce the order.
- (5) As soon as the registrar becomes aware of the circumstances mentioned in subsection (1), the registrar must ensure that any steps taken under this Act to enforce the enforcement order are discontinued immediately and no further action is taken until all of the appeals are decided.

## **Division 6                      Cancellation of certain enforcement orders**

### **55            Application of div 6**

This division applies to an enforcement order for an infringement notice offence registered with SPER under section 33 (*relevant enforcement order*).

### **56            Applications for cancellation of enforcement orders**

- (1) An enforcement debtor may apply in writing to SPER for the cancellation of the relevant enforcement order for any of the following reasons—
  - (a) the person did not receive—
    - (i) the infringement notice; or
    - (ii) any reminder notice the relevant administering authority sent to the person about the infringement notice; or
    - (iii) the enforcement order;

- (b) the person received a notice or order mentioned in paragraph (a) after the time allowed for taking action stated in the notice or order;
  - (c) the person was prevented by accident or illness or for another similar reason from taking action in relation to the infringement notice or enforcement order;
  - (d) the person is electing to have the matter of the offence to which the relevant enforcement order relates decided in a Magistrates Court.
- (2) The application must be made within the earlier of the following—
- (a) 14 days after the debtor becomes aware of the existence of the order;
  - (b) 6 months after the issue of the relevant enforcement order.
- (3) Despite subsection (2), an application under subsection (1) may be made after the periods mentioned in subsection (2) have ended if the registrar is satisfied the applicant has reasonable grounds for the delay.
- (4) A person must not, without the approval of the registrar, make more than 1 application in relation to the relevant enforcement order.

## **57 Decision on application**

- (1) The registrar may cancel the relevant enforcement order only if the registrar is satisfied the order should be cancelled for the reason stated in the application.
- (2) The registrar may ask the applicant to give to the registrar any information prescribed under a regulation that will help the registrar decide the application.
- (3) The registrar may consider the application in the absence of the applicant.

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- (4) If the registrar cancels the relevant enforcement order, the registrar must refer the matter of the offence to the administering authority.
- (5) The administering authority may—
  - (a) start a proceeding against the applicant for the offence; or
  - (b) accept payment of the fine in full as stated in the infringement notice for the offence; or
  - (c) issue a fresh infringement notice for the offence.
- (6) The registrar must give the applicant notice of the decision in the approved form.

## **58 Appeal against refusal to cancel enforcement order**

- (1) If, within 14 days after the date of the notice of the decision under section 57(6) and, after considering an application to cancel an enforcement order, the registrar refuses to cancel the order, the applicant may apply in writing to a Magistrates Court in the Magistrates Court district in which the offence is alleged to have been committed to have the original application decided by the court.
- (2) The application must be filed with the relevant court registrar.
- (3) The court registrar must, as soon as practicable, refer the matter to the court and notify the applicant and the registrar of when and where the application is to be decided.
- (4) The court may make any decision about the application that the registrar could have made.
- (5) The court may decide the application in the absence of the applicant if the court is satisfied the applicant is avoiding service of the notice or can not, after reasonable search and inquiry, be found.
- (6) Also, the court may decide the application if it is satisfied that no party to the application will be prejudiced by the non-service of, or any error or omission in, the notice of the decision under section 57(6).



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**60 Provisions relating to cancellation of enforcement order**

- (1) On an application under section 56 or 58, the registrar or a Magistrates Court may stay enforcement action under a relevant enforcement order on the conditions the registrar or the court considers appropriate.
- (2) A single application may be made for the cancellation of 2 or more relevant enforcement orders against the same person.
- (3) A relevant enforcement order that is cancelled stops having effect on the making of the order cancelling it and any enforcement action already taken must, if practicable, be reversed.
- (4) Without limiting subsection (3), if a relevant enforcement order is cancelled—
  - (a) enforcement costs are not payable for the issue of the order; and
  - (b) any amount that has been paid under the order is repayable to the person by whom it was paid; and
  - (c) the period of limitation within which a proceeding for the offence to which the order relates may be started for the matter starts on the day the order is cancelled.
- (5) Also, section 31 applies as if the infringement notice to which the relevant enforcement order relates were cancelled under section 30.
- (6) Subsection (4)(c) provides some other time limit for making complaint for the purposes of the *Justices Act 1886*, section 52.

## **Part 5                      Civil enforcement**

### **Division 1                  Preliminary**

#### **61            Application of pt 5**

Subject to section 62, this part applies—

- (a) if—
  - (i) the unpaid amount stated in an enforcement order is not paid within 28 days after the date of the order; and
  - (ii) if relevant, the enforcement debtor has not elected under section 51 to have the matter of an offence decided in a Magistrates Court; or
- (b) if this Act expressly authorises the registrar to issue an enforcement warrant or a fine collection notice for an unpaid amount.

#### **62            Part does not prevent issue of arrest and imprisonment warrant**

Nothing in this part prevents the registrar, instead of acting under this part, issuing an arrest and imprisonment warrant for an enforcement debtor who may be arrested under this or another Act because of the enforcement debtor's failure to pay an amount.

### **Division 2                  Enforcement warrants**

#### **63            Issue of enforcement warrant**

- (1) The registrar may issue a warrant (*enforcement warrant*) under this division for an unpaid amount.
- (2) An enforcement warrant may be a warrant—

- (a) to seize and sell real and personal property, other than exempt property, in which the enforcement debtor has a legal or beneficial interest; or
  - (b) imposing a charge on specified property.
- (3) An enforcement warrant must—
- (a) be in the approved form; and
  - (b) be directed to all enforcement officers; and
  - (c) for an enforcement warrant to seize and sell property—state the date and time of issue and the date, within 1 year after the warrant’s issue, the warrant ends; and
  - (d) for an another enforcement warrant—state the date and time of issue and the date, within 6 months after the warrant’s issue, the warrant ends; and
  - (e) include any other particulars required under section 140 or 141.
- (4) On the issue of an enforcement warrant, the amount owing by the enforcement debtor is increased to the total of the amount unpaid before the warrant was issued and the civil enforcement fee.
- (5) A copy of the enforcement warrant must be served on the enforcement debtor.
- (6) Nothing in this Act prevents the registrar from issuing an enforcement warrant to seize and sell a vehicle while it is subject to an immobilisation warrant.
- (7) However, an enforcement warrant can not be enforced while a vehicle is immobilised under an immobilisation warrant.
- (8) A charge imposed on personal property under an enforcement warrant—
- (a) is declared to be a statutory interest to which section 73(2) of the PPS Act applies; and

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- (b) has priority over all security interests in relation to the personal property other than those registered on the PPS register before the charge is mentioned on the register.
- (9) Subsection (10) applies to the following fees, expenses and costs to the extent the fees, expenses and costs relate to personal property under an enforcement warrant—
  - (a) the enforcement officer's fees and expenses mentioned in section 73J(2);
  - (b) other enforcement costs mentioned in section 73J(3)(a).
- (10) The fees, expenses and costs mentioned in subsection (9)—
  - (a) are declared to be statutory interests to which section 73(2) of the PPS Act applies; and
  - (b) have priority over all security interests in relation to the personal property.
- (11) In this section—
  - exempt property* see the *Civil Proceedings Act 2011*, schedule 1.
  - personal property* see the PPS Act, section 10.
  - PPS Act* means the *Personal Property Securities Act 2009* (Cwlth).
  - PPS register* means the Personal Property Securities Register under the PPS Act.
  - security interest* see the PPS Act, section 12.

### **63A Renewal of enforcement warrant**

- (1) Before an enforcement warrant ends, the warrant may be renewed by the registrar for a period of—
  - (a) for an enforcement warrant to seize and sell property—not more than 1 year at any one time, from the date the warrant ends; or
  - (b) for another enforcement warrant—not more than 6 months at any one time, from the date the warrant ends.

- (2) A renewed enforcement warrant must state the period for which the warrant has been renewed.
- (3) The priority of a renewed enforcement warrant is decided according to the date the warrant was originally issued.
- (4) A copy of the renewed enforcement warrant must be served on the enforcement debtor.

**64 Registrar may cancel, suspend or vary enforcement warrant for seizure of property**

- (1) A person claiming an interest in property that is or is about to be seized or sold under an enforcement warrant may apply to the registrar for the cancellation, suspension or variation of all or part of the warrant, including because of facts that arise or are discovered after the warrant was issued.
- (2) The application must state the facts relied on by the applicant.
- (3) The registrar may, by order, cancel, suspend or vary an enforcement warrant.

**65 Enforcement warrant imposing a charge on property**

- (1) An enforcement warrant imposing a charge on property may charge all or part of the enforcement debtor's interest in specified land, interests in managed investment schemes or securities.
- (2) The registrar may issue an enforcement warrant imposing a charge on property belonging to a partnership only if the registrar has given the partners—
  - (a) notice of intention to issue the warrant; and
  - (b) at least 10 days to give reasons the warrant should not be issued.
- (3) For this section, service on each partner who resides in the State is sufficient service on any partner who resides outside the State.

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**66 Effect of warrant imposing charge on property**

- (1) An enforcement warrant imposing a charge on property entitles SPER to the same remedies as SPER would have had if the charge had been made in SPER's favour by the enforcement debtor.
- (2) However, SPER may not take proceedings to obtain a remedy in relation to particular charged property until—
  - (a) the enforcement warrant imposing the charge is served on the enforcement debtor and, for interests in managed investment schemes or securities, the person who issued or administers the interests or securities; and
  - (b) 21 days have passed since the later service.

**67 Order to set aside or restrain sale, etc. of charged property**

- (1) The registrar may apply to the Supreme Court for an order restraining the sale, transfer or other dealing with property under an enforcement warrant imposing a charge on property.
- (2) The Supreme Court may restrain the sale, transfer or other dealing, unless to do so would prejudice the rights or interests of a genuine purchaser or chargee without notice.
- (3) Also, the Supreme Court may—
  - (a) order that property mentioned in the order must not be sold, transferred or otherwise dealt with; or
  - (b) order that property mentioned in the order be sold, transferred or otherwise dealt with only in a stated way or circumstance.
- (4) In addition, the Supreme Court may set aside any sale, transfer or other dealing with property charged under an enforcement warrant, unless to do so would prejudice the rights or interests of a genuine purchaser or chargee without notice.

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**68 Offence of dealing with charged or restrained property**

- (1) An enforcement debtor who is served with a copy of an enforcement warrant imposing a charge on property or an order made under section 67, must not knowingly contravene the warrant or order by concealing, selling, transferring or otherwise dealing with the property.

Maximum penalty—200 penalty units or 3 years imprisonment.

- (2) A person who is served with a copy of an enforcement warrant imposing a charge on property or an order made under section 67 and issued or administers the charged property must not conceal, sell, transfer or otherwise deal with the property.

Maximum penalty—200 penalty units or 3 years imprisonment.

- (3) If, despite subsection (2), the person who issued or administers the charged property conceals, sells, transfers or otherwise deals with the property, the person is liable to SPER for the value or amount of the charged property dealt with or the amount owing by the enforcement debtor, whichever is smaller.

**68A Offence of concealing, selling, transferring or otherwise dealing with property subject to seizure**

An enforcement debtor who is served with a copy of an enforcement warrant to seize and sell property must not conceal, sell, transfer or otherwise deal with the property with intent to—

- (a) defeat the enforcement of the warrant; or  
(b) adversely affect any seizure or sale of the property under this Act.

Maximum penalty—200 penalty units or 3 years imprisonment.

**69 Enforcement of enforcement warrant may be made conditional**

- (1) If the registrar issues an enforcement warrant to seize and sell real and personal property, the registrar may also instruct any or all enforcement officers not to enforce the warrant until the steps in this section are followed.
- (2) The enforcement officer must first attempt to recover the amount owing in full.
- (3) If the enforcement debtor can not pay the amount owing in full, the enforcement officer must attempt to interview the enforcement debtor.
- (4) If the enforcement officer reasonably believes the enforcement debtor will not, or is unwilling to, take part in the interview, the enforcement officer may enforce the warrant.
- (5) If, after interviewing the enforcement debtor, the enforcement officer is satisfied the enforcement debtor is unable to pay the amount owing in full, but can pay the amount in a way mentioned in subsection (6) or (7), and the enforcement debtor agrees, the enforcement officer—
  - (a) must not enforce the warrant; and
  - (b) must ensure the enforcement debtor gives the enforcement officer the information necessary or completes any documents necessary for the amount to be satisfied in the agreed way.
- (6) If the enforcement officer is satisfied the enforcement debtor can pay the amount owing by instalments at the full instalment rate, the ways the amount may be paid are as follows—
  - (a) by regular redirection from a financial institution account at the full instalment rate;
  - (b) by regular redirection from earnings.
- (7) If the enforcement officer is satisfied the enforcement debtor can not pay the amount owing by instalments at the full instalment rate, the ways the amount may be paid are as follows—



- (a) by paying the amount by regular redirection from a financial institution account at a rate less than the full instalment rate;
- (b) by performing hours of unpaid community service under a fine option order.

**69A Particular matters about enforcement of enforcement warrant**

- (1) The registrar must give an enforcement warrant to an enforcement officer to be enforced, subject to any instruction under section 69(1) for the warrant.
- (2) An enforcement officer must—
  - (a) have the warrant in the enforcement officer's possession when enforcing the warrant; and
  - (b) for a warrant to seize or sell property—show the warrant to any person claiming an interest in the property to be seized.
- (3) Actual seizure is not necessary to authorise the sale of real property under an enforcement warrant.
- (4) If there is an advertisement of a notice about real property under section 73H, an enforcement officer is taken to have seized the real property for the purpose of this division.

**70 Power of entry to enforce enforcement warrant**

- (1) An enforcement officer may, at any reasonable time of the day or night, enter any premises stated in an enforcement warrant for the purposes of executing the warrant.
- (2) However, an enforcement officer may enter a part of premises used only for residential purposes only if the occupier consents to the entry or entry is authorised under a search warrant.

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## **71 Search warrant**

- (1) If an enforcement officer reasonably believes there may be in any premises property that may be seized under an enforcement warrant, the enforcement officer may apply to a magistrate or a justice of the peace (magistrates court) who is not an official within the meaning of section 12, for the issue of a search warrant under this section.
- (2) The magistrate or justice (*issuer*) may refuse to consider the application until the enforcement officer gives the issuer all the information the issuer requires about the application in the way the issuer requires.

*Example—*

The issuer may require additional information about the application to be given by statutory declaration.

- (3) The issuer may issue the warrant only if satisfied there are reasonable grounds for believing there is in the premises property an enforcement officer may seize under an enforcement warrant.
- (4) The warrant must be in the approved form and state—
  - (a) that a stated enforcement officer, or all enforcement officers, may enter the place and exercise the powers under section 72; and
  - (b) if the warrant is to be enforced at night—the hours when the place may be entered; and
  - (c) the warrant ends 7 days after it is issued.

## **72 Powers under search warrant**

- (1) An enforcement officer has the following powers under a search warrant—
  - (a) power to enter and re-enter stated premises and to stay on the premises for the time reasonably necessary to exercise the power mentioned in paragraph (b);

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- (b) power to search for and seize any property the enforcement officer may seize under an enforcement warrant;
  - (c) power to use reasonable help and force for paragraphs (a) and (b);
  - (d) power to do anything else reasonably necessary to be done that is incidental to searching for and seizing any property the enforcement officer may seize under an enforcement warrant.
- (2) However, an enforcement officer does not have power under this section to seize property under any enforcement warrant or order issued under another Act while the person is in premises only under a search warrant under this Act.

### **73 Powers supporting seizure**

Having seized a thing, an enforcement officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

### **73A Notice to enforcement debtor etc. if seizure**

- (1) An enforcement officer who seizes property under an enforcement warrant must serve a notice complying with subsection (2) on the enforcement debtor or the person who is in possession of the property immediately before it is seized.
- (2) For subsection (1), the notice must—
  - (a) be in the approved form; and

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- (b) state the property that is seized for sale under the warrant; and
- (c) state that it is an offence—
  - (i) to conceal, sell, transfer or otherwise deal with the property seized with intent to—
    - (A) defeat the enforcement of the enforcement warrant; or
    - (B) adversely affect any seizure or sale of the property under this Act; or
  - (ii) to interfere with property, seized by an enforcement officer, left at the place of seizure or a seizure tag or sticker placed on the property.

### **73B Enforcement officer may authorise tow**

- (1) This section applies if an enforcement officer arranges for a motor vehicle seized under an enforcement warrant to be towed to a holding yard.
- (2) An enforcement officer may sign a towing authority for the seized vehicle.
- (3) The driver of a tow truck towing the seized motor vehicle under a towing authority must tow the vehicle to—
  - (a) if the enforcement officer directs the driver to tow the motor vehicle to a particular holding yard—the holding yard; or
  - (b) if paragraph (a) does not apply—the holding yard to which the driver ordinarily tows motor vehicles.
- (4) In this section—

***towing authority*** means—

  - (a) a towing authority under the *Tow Truck Act 1973*; or
  - (b) another document authorising a person to tow a motor vehicle.

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**73C Order of selling property**

- (1) An enforcement officer must seize and sell property in the order appearing to the enforcement officer to be best for—
  - (a) the prompt enforcement of the warrant without undue expense; and
  - (b) subject to paragraph (a), minimising hardship to the enforcement debtor and other persons.
- (2) However, the registrar may, after having regard to the matters mentioned in subsection (1)(a) and (b), direct the enforcement officer to seize and sell property in an order different to the order mentioned in the subsection.
- (3) An enforcement officer may seize and sell an item of property even though the enforcement officer considers that the item's value exceeds the amount recoverable, but the enforcement officer must not also seize and sell additional items.

**73D Payment by enforcement debtor before sale**

An enforcement officer must not sell property seized under an enforcement warrant if, at or before the sale, the enforcement debtor pays to the enforcement officer—

- (a) the amount stated in the warrant; and
- (b) the costs of enforcement then known to the enforcement officer.

**73E Storage before sale**

- (1) Until sale, an enforcement officer must put goods seized under an enforcement warrant in an appropriate place, or give them to an appropriate person, approved by the registrar for the purpose.
- (2) SPER must pay any storage expenses but may recover them as costs of enforcement.

[s 73F]

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### **73F Nature of sale**

- (1) Unless the registrar directs otherwise, an enforcement officer must put up for sale by public auction all property liable to be sold under an enforcement warrant—
  - (a) as early as possible; and
  - (b) at a place and in a way appearing to the enforcement officer to be suitable for a beneficial sale of the property.
- (2) The public auction may be conducted by the enforcement officer or a person authorised by the registrar.
- (3) Property sold by public auction must be sold under the following conditions of sale—
  - (a) the property must be sold—
    - (i) for goods, if the person conducting the auction considers the particular lot in which the goods are to be auctioned is worth less than \$500, or for other property if the enforcement debtor agrees—at the best price obtainable; or
    - (ii) otherwise, if the reserve is reached—to the highest bidder;
  - (b) if the person conducting the auction considers there is a dispute as to who is the highest bidder, the property is to be reauctioned and knocked down to the highest bidder.
- (4) However, before a sale by public auction, the enforcement debtor may apply to the registrar for a direction that the property be sold privately.
- (5) The application must state the facts relied on by the enforcement debtor.
- (6) If the registrar gives a direction under subsection (4)—
  - (a) the registrar may give the direction to an enforcement officer; and
  - (b) the enforcement debtor must pay any costs already incurred by an enforcement officer for the auction.

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- (7) If property put up for sale at public auction is not sold by auction, an enforcement officer may sell the property privately—
- (a) for an amount not less than the highest bid made at the auction that the registrar considers is a reasonable amount for the property; or
  - (b) if no bid was made at the auction—for an amount the registrar considers is a reasonable amount for the property.

*Note—*

See section 73G (Sale at best price obtainable).

- (8) In this section—

*reserve*, for property to be sold at auction, means the reserve amount set by the registrar, that is an amount the registrar considers is not less than a reasonable amount for the property.

### **73G Sale at best price obtainable**

- (1) This section applies if the enforcement debtor's property has not been sold under section 73F.
- (2) The registrar may direct an enforcement officer to sell the property at the best price obtainable.

### **73H Advertising**

- (1) Before selling property seized under an enforcement warrant an enforcement officer must arrange advertisement of a notice giving the time and place of sale together with details of the property to be sold.
- (2) However, an enforcement officer may sell seized goods without arranging the advertisement if—
  - (a) the goods are of a perishable nature; or
  - (b) the enforcement debtor requests it in writing.

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- (3) Also, if property seized under an enforcement warrant is put up for sale at a public auction to be conducted by a person other than an enforcement officer—
  - (a) it is sufficient for a notice under subsection (1) to contain only the details reasonable and usual for a public auction of property of the same nature as the seized property; and
  - (b) subsection (5) does not apply and advertisement of the notice may be done in the way reasonable and usual for a public auction of property of the same nature as the seized property; and
  - (c) the registrar may require any additional advertising the registrar considers reasonable.
- (4) An enforcement officer must send a copy of the notice by prepaid post to the enforcement debtor at the enforcement debtor's last known address.
- (5) In this section—

***advertisement***, of a notice, means—

- (a) in any case—publication of the notice on SPER's website; and

*Editor's note—*

The address of SPER's website is <[www.justice.qld.gov.au/justice-services/sper](http://www.justice.qld.gov.au/justice-services/sper)>.

- (b) if there are 2 or more newspapers circulating in the district where the property is located—publication of the notice once in each of 2 of the newspapers not less than 2 weeks, and no more than 4 weeks, before the date of sale; and
- (c) if there is only 1 newspaper circulating in the district where the property is located—publication of the notice twice in the newspaper (on different days, if practicable) not less than 2 weeks, and no more than 4 weeks, before the date of sale; and
- (d) if there is no newspaper circulating in the district where the property is located and the property to be sold is an



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interest in land—posting the notice on the land not less than 2 weeks, and no more than 4 weeks, before the date of sale; and

- (e) if there is no newspaper circulating in the district where the property is located and the property to be sold is not an interest in land—posting the notice at the place where the sale is to take place not less than 2 weeks, and no more than 4 weeks, before the date of sale.

*district* means Magistrates Courts district.

### **73I Postponement of sale**

- (1) The registrar may, on application by the enforcement debtor or on the advice of an enforcement officer, direct that a sale of property seized under an enforcement warrant be postponed to a stated date.
- (2) If the enforcement warrant authorising the seizure would otherwise end before the stated date, the postponement extends the warrant's validity until the end of the stated date.

### **73J Accountability for, and distribution of, money received**

- (1) An enforcement officer must pay to the registrar all proceeds of sale and other money received by the enforcement officer under an enforcement warrant as soon as practicable after receiving the money, whether before or after the seizure of property under the warrant.
- (2) However, before making the payment, the enforcement officer may deduct the enforcement officer's fees and expenses in relation to enforcement or attempted enforcement.
- (3) The registrar must apply the money received from the enforcement officer in the following order—
  - (a) in payment of any other enforcement costs incurred by SPER in seizing and selling, or attempting to seize and sell, the property;

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- (b) if there is an amount owing to an entity under a security interest registered for the property on the PPS register before the charge on the property is mentioned on the register—in payment of the amount owing under the security interest;
  - (c) in payment of the amount recoverable under the enforcement warrant other than costs;
  - (d) if there is an amount owing to an entity under a security interest registered for the property on the PPS register after the charge on the property is mentioned on the register—in payment of the amount owing under the security interest;
  - (e) in payment of any balance to the enforcement debtor.
- (4) To remove any doubt, it is declared for subsection (3)(b) and (d) that, if there is an amount owing to more than 1 entity, the priority between the entities is to be determined under the PPS Act.
- (5) In this section—

*charge* means a charge mentioned in section 63(8).

*PPS Act* means the *Personal Property Securities Act 2009* (Cwlth).

*PPS register* means the Personal Property Securities Register under the PPS Act.

*security interest* see the PPS Act, section 12.

### **73K Reserve price provisions**

- (1) To set an amount as a reasonable value of the property to be sold, an enforcement officer may require the enforcement debtor to give the enforcement officer any information about the property that is known to, or can reasonably be obtained by, the enforcement debtor.
- (2) An enforcement debtor required under subsection (1) to give an enforcement officer any information about the property that is known to, or can reasonably be obtained by, the

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enforcement debtor must comply with the requirement, unless the enforcement debtor has a reasonable excuse.

Maximum penalty—10 penalty units.

- (3) A failure by the enforcement debtor to comply with the enforcement officer's requirement does not prevent the registrar setting a reserve under section 73F.
- (4) The enforcement officer may communicate the amount set as a reasonable value of property to any person before the sale only if the communication is necessary to conduct the sale or there is another sufficient excuse.

#### **74 Return of enforcement warrant**

- (1) An enforcement officer must give to the registrar a return about the enforcement or otherwise of an enforcement warrant.
- (2) The return must be made by giving to the registrar a certificate signed by the enforcement officer stating what was done to enforce the warrant, or what other action, if any, was taken.

### **Division 3 Fine collection notices**

#### **75 Issue of fine collection notice**

- (1) The registrar may issue a notice (*fine collection notice*) under this division for an unpaid amount.
- (2) A fine collection notice may be a notice—
  - (a) to redirect earnings of the enforcement debtor; or
  - (b) to redirect all or part of a debt owed to the enforcement debtor; or
  - (c) for regular redirection from a financial institution account.
- (3) On the issue of a fine collection notice, the amount owing by the enforcement debtor is increased to the total of the amount

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unpaid before the notice was issued and the civil enforcement fee prescribed under a regulation.

## **76 Issue of fine collection notice after enforcement warrant**

- (1) This section applies if an enforcement debtor agrees under section 69 to satisfy an amount for which an enforcement warrant has been issued by payments under a fine collection notice.
- (2) The issue of the fine collection notice suspends the operation of the enforcement warrant for so long as amounts are deducted under the notice.

## **77 Registrar may cancel, suspend or vary fine collection notices**

- (1) An enforcement debtor may apply to the registrar for the cancellation, suspension or variation of all or part of a fine collection notice, including because of facts that arise or are discovered after the notice was issued.
- (2) The application must state the facts relied on by the applicant.
- (3) The registrar may cancel, suspend or vary a fine collection notice.
- (4) If the registrar cancels, suspends or varies a fine collection notice for redirection of the enforcement debtor's earnings, the registrar must give notice of the cancellation, suspension or variation to the enforcement debtor's employer.
- (5) If the registrar cancels, suspends or varies a fine collection notice for regular redirection from a financial institution account, the registrar must give notice of the cancellation, suspension or variation to the financial institution named in the notice.
- (6) If the registrar cancels, suspends or varies a fine collection notice for regular redirection of a debt owing to the enforcement debtor, the registrar must give notice of the cancellation, suspension or variation to the third person to whom the fine collection notice was given.

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- (7) The cancellation, suspension or variation of a fine collection notice for regular redirection from a financial institution account does not take effect until the end of 7 days after the day notice of the cancellation, suspension or variation to is given to the financial institution.

**78 Copy of notices under this division to be given to enforcement debtor**

The registrar must give a copy of any fine collection notice, or notice cancelling, varying or suspending a fine collection notice, to the enforcement debtor as soon as practicable after it is issued.

**Division 4 Provisions about fine collection notices redirecting earnings**

**79 When registrar may issue fine collection notice for redirection of earnings**

- (1) The registrar may issue to the employer of an enforcement debtor a fine collection notice for redirection of the enforcement debtor's earnings only if the registrar is satisfied of the following—
- (a) the person is the enforcement debtor's employer;
  - (b) the enforcement debtor will have enough money available to satisfy the unpaid amount after deducting—
    - (i) the necessary living expenses of the enforcement debtor and the enforcement debtor's dependants; and
    - (ii) any other known liabilities of the enforcement debtor;
  - (c) the amount of earnings to be redirected would not impose unreasonable hardship on the enforcement debtor.

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- (2) If the registrar considers it necessary or desirable to cancel or vary a fine collection notice, the registrar must, as soon as is practicable, give written notice to the employer of the cancellation or variation of the relevant notice.

## **80 Two or more employers of 1 employee**

If an enforcement debtor receives earnings from 2 or more employers, the registrar may—

- (a) treat any of the employers as the only employer of the enforcement debtor; or
- (b) treat any 2 or more of the employers as joint employers of the enforcement debtor.

## **81 Duty of employer to make deductions**

- (1) Subject to section 82, an employer who pays earnings to an employee for whom a fine collection notice for redirection of the enforcement debtor's earnings is in force must, when paying the earnings, deduct an amount from the earnings as required under this division.

Maximum penalty—20 penalty units.

- (2) On the conviction of a person for an offence against subsection (1), the court may, in addition to imposing a penalty, order the person to pay to SPER, as a debt, an amount of not more than the total of the amount the person did not deduct under the fine collection notice.

## **82 Working out amount to be deducted**

- (1) The amount an employer must deduct from an enforcement debtor's earnings for each week under a fine collection notice is the weekly deduction amount specified in the notice.
- (2) However, if the deduction of an amount under subsection (1) would reduce the enforcement debtor's earnings for the period to less than the protected earnings amount, the employer must deduct only the amount, if any, that would reduce the

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enforcement debtor's earnings for the period to an amount equal to the protected earnings amount.

*Examples for subsection (2)—*

- 1 If the employee earns \$250 and the protected earning rate is \$275, no deduction may be made.
- 2 If the employee earns \$290, the protected earnings rate is \$275 and the amount to be deducted is \$25, the employer may only deduct the difference between the protected earnings rate and the amount actually earned or \$15.

### **83 Provisions for working out earnings for s 82**

- (1) This section applies for working out the amount of earnings an employer pays to an employee.
- (2) Any amount an employer pays to an employee for piecework is taken to have been paid to the employee for the period that started when the employee started the work and ended when the work ended.
- (3) Any amount an employer pays to an employee for services under a contract that is wholly or principally for the labour of the employee is taken to have been paid to the employee for the period that started when the employee started to provide the services and ended when the provision of the services ended.
- (4) Any amount an employer pays for other work performed or services provided, but not for a particular period, is taken to have been paid for the period of 52 weeks ending the day before the day the amount is paid.
- (5) If the employee is entitled to be paid an amount for a period of more than 1 week, the employer is taken to have paid an amount of earnings to the employee for each week or part of a week in the period, worked out by dividing the amount of earnings actually paid by the number of days in the period and multiplying the result—
  - (a) for each week—by 7; and
  - (b) for a part of a week—by the number of days in the part of the week.

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- (6) If an employer pays earnings for a week or part of a week in 2 or more separate amounts, the amounts must be aggregated, and the employer may make a deduction from 1 amount or partly from 2 or more amounts.
- (7) For this section, the amount of any earnings is taken to be the amount of the earnings after deducting any amount the employer is required to deduct from the earnings under the *Income Tax Assessment Act 1936* (Cwlth), part 6, division 2.

## **84 Additional duties of employers**

- (1) An employer who deducts an amount from an employee's earnings under a fine collection notice must, within 7 days after the end of the month in which the amount is deducted or the longer period, of not more than 21 days, the registrar allows—

- (a) pay to the registrar the amounts deducted; and
- (b) give to the registrar a return in the approved form.

Maximum penalty—50 penalty units or 6 months imprisonment.

- (2) An employer who does not deduct an amount from an employee's earnings under a fine collection notice relating to an employee in a particular month must, within 7 days after the end of the month, or the longer period, of not more than 21 days, the registrar allows, give to the registrar a return in the approved form.

Maximum penalty—15 penalty units.

- (3) An employer who pays earnings to an employee while a fine collection notice relating to the employee is in force must give to the employee a written notice stating—

- (a) the amount deducted under the notice; or
- (b) if no deduction is made, that no deduction has been made under the notice.

Maximum penalty—15 penalty units.



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- (4) If an employee to whom a fine collection notice relates stops being an employee while the notice is in force, the employer must give to the registrar notice of that fact in the approved form within 7 days after the end of the month in which the employment ended or the longer period the registrar allows.

Maximum penalty for subsection (4)—10 penalty units.

**85 Discharge of enforcement debtor's liability to registrar and employer's liability to enforcement debtor**

If an employer deducts an amount under this division from the earnings of an enforcement debtor—

- (a) the enforcement debtor is, to the extent of the amount deducted, discharged from the enforcement debtor's liability to make payments to the registrar; and
- (b) the employer is discharged from liability to pay the amount to any person other than the registrar.

**86 Payment by trustees of deducted amounts**

- (1) This section applies if—
- (a) an amount is payable to the registrar by an employer; and
- (b) the property of the employer has become vested in, or the control of the property of the employer has passed to, a trustee.
- (2) The trustee is liable to pay the amount to the registrar.

**87 Penalty for late payment to registrar of deducted amounts**

- (1) If an employer other than a government body fails to pay an amount deducted under a fine collection notice (*deducted amount*) to the registrar in accordance with section 81, the employer must pay to SPER, as a penalty (*late payment penalty*)—
- (a) 10% of the deducted amount; and

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- (b) interest at the rate of 10% each year on the daily balance of the unpaid deducted amount.
- (2) Interest is payable on the deducted amount from the day after the amount should have been paid until the day the amount is actually paid.

## **88 Penalty for failure to make deductions from earnings**

- (1) If an employer other than a government body fails to deduct an amount that could have been deducted from an employee's earnings under a fine collection notice (*undeducted amount*), the employer must pay to SPER, as a penalty (*late payment penalty*), interest at the rate of 10% each year on the undeducted amount.
- (2) Interest is payable on the undeducted amount from the day the undeducted amount should have been deducted until the day the amount is actually paid.

## **89 When late payment penalty may be waived**

- (1) The registrar may waive all or part of a late payment penalty if the registrar is satisfied of any of the following—
  - (a) if the circumstances that contributed to the delay were not caused directly or indirectly by an act or omission of the employer—the employer has taken reasonable steps to avoid or minimise the effects of the circumstances;
  - (b) if the circumstances that contributed to the delay were directly or indirectly caused by an act or omission of the employer—
    - (i) the employer has taken reasonable steps to avoid or minimise the effects of the circumstances; and
    - (ii) having regard to the nature of the circumstances, it would be fair and reasonable to waive the penalty or part of the penalty;

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- (c) there are special circumstances because of which it would be fair and reasonable to waive all or part of the penalty.
  - (2) If the registrar decides to waive part only of a late payment penalty, or not to waive any part of a late payment penalty, the registrar must give written notice of the decision to the employer concerned and the reasons for the decision.

## **90 Application of interest payable on judgment debt**

- (1) This section applies if a court gives judgment for the State for the payment of an amount that is or is part of a relevant amount (*judgment debt*).
- (2) The relevant amount, or part of the relevant amount, must not be taken, for this division, to have stopped being payable only because of the judgment.
- (3) However, interest payable on the judgment debt must be applied to reduce the amount of interest that would otherwise be payable under this Act.
- (4) In this section—  
*relevant amount* means—
  - (a) a deducted amount; or
  - (b) the amount of a late payment penalty; or
  - (c) an undeducted amount.

## **91 Penalty is alternative to prosecution for certain offences against part**

- (1) If a prosecution is started against an employer for an offence against section 81, any amount payable by the employer as a late payment penalty in the circumstances of the contravention is not payable.
- (2) If—
  - (a) a person who must pay a late payment penalty to the registrar under this division pays an amount to the

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registrar in full or partial discharge of the person's liability for the penalty; and

- (b) a prosecution is started against the person for an offence against section 81 in the circumstances in which the late payment penalty became payable;

the registrar must either refund the amount to the person, or apply the amount in full or partial discharge of another debt the person owes to SPER under this Act.

- (3) However, if the prosecution is withdrawn, the person again becomes liable to pay the late payment penalty.
- (4) For subsection (3), the period of the prosecution is not counted for the purpose of calculating a late payment penalty under section 87 or 88.

## **92 Employers not to prejudice employees because of action under this part**

- (1) An employer must not, because another person is an enforcement debtor—
- (a) refuse to employ or pay earnings to the person; or
  - (b) dismiss, or threaten to dismiss, the person from employment; or
  - (c) terminate or threaten to terminate the payment of earnings to the person; or
  - (d) prejudice or threaten to prejudice the person in the person's employment or otherwise in the receipt of earnings; or
  - (e) intimidate, coerce, impose a money or other penalty on, or take any other disciplinary action against, the person.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (2) On the conviction of an employer for an offence against subsection (1), the court may, whether or not it imposes any penalty for the offence, make either or both of the following orders—

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- (a) order the offender to pay compensation to the enforcement debtor for loss or damage suffered because of the offence;
  - (b) order the taking of action to remedy or reduce the loss or damage suffered by the enforcement debtor because of the offence.
- (3) The enforcement debtor may recover compensation ordered to be paid under subsection (2)(a) as a debt.
- (4) Subsection (2) does not limit the powers of a court under the *Penalties and Sentences Act 1992*, part 3, division 4.

### **93 Employers not to disclose information etc.**

- (1) This section applies to a person who is or has been—
- (a) an employer of an enforcement debtor; or
  - (b) a person employed by, or performing services for, an employer of an enforcement debtor.
- (2) The person must not directly or indirectly disclose or communicate to another person any information about the financial affairs of the enforcement debtor that is disclosed or obtained under this division and acquired by the person because of, or in performing, the employer's duties under this division, other than—
- (a) for this Act; or
  - (b) for performing the employer's duties under this Act; or
  - (c) for carrying on the employer's business affairs.

Maximum penalty for subsection (2)—25 penalty units or 6 months imprisonment.

### **94 Records to be kept by employers**

- (1) An employer must keep written records, in English, of—
- (a) all amounts deducted or required to be deducted from earnings under a fine collection notice; and

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(b) other acts done, or required to be done, by the employer under this division.

Maximum penalty—25 penalty units or 6 months imprisonment.

(2) The employer must—

(a) keep the records in a way that correctly records and explains the matters to which they relate; and

(b) keep a particular record for 5 years after it is made.

Maximum penalty—25 penalty units or 6 months imprisonment.

(3) This section does not require a person to keep records if the registrar has notified the person, in writing, that keeping the records is not required.

(4) In a proceeding for an offence against subsection (2)(a), it is a defence for the employer to prove that the employer did not know, and could not reasonably be expected to have known, that the record to which the proceeding relates did not correctly record and explain the matter to which the record relates.

## **95 Access to premises etc.**

(1) For enforcing this part against an employer, the registrar may give an enforcement officer written authority to exercise powers under this section.

(2) The enforcement officer may not exercise powers under this section unless the enforcement officer first produces the written authority for inspection by the employer and an identity card.

(3) The powers the enforcement officer has under this section are as follows—

(a) power, at all reasonable times, to enter premises of an employer, other than premises used exclusively as a residence, and remain on the premises for the time

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reasonably necessary to exercise powers under this section;

- (b) power to inspect or examine any business records relevant to the employer's obligations under this Act on the employer's premises;
  - (c) power to make copies of, or take extracts from, any document the enforcement officer considers is reasonably necessary for ensuring compliance with this Act;
  - (d) power to require the occupier of the premises to give the enforcement officer reasonable help to exercise a power mentioned in paragraph (a), (b) or (c).
- (4) A person required under subsection (3)(d) to give an officer reasonable help must comply with the request, unless the person has a reasonable excuse for not doing so.

Maximum penalty—20 penalty units.

- (5) To the extent reasonable help required by an enforcement officer would involve the production of a document or the giving of information, it is a reasonable excuse for the purposes of subsection (4) that the production of the document or the giving of the information would tend to incriminate the person.

## **96 Application of amounts paid or credited if 2 or more debts due**

- (1) This section applies if—
- (a) 2 or more debts are payable to SPER by an employer under this part; and
  - (b) an employer pays an amount, or the registrar credits an amount towards a debt.
- (2) Division 9 applies to the amount despite any direction of the employer to the contrary.

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## **Division 5                      Provisions about fine collection notice for redirection of a debt**

### **97            When debt redirected under fine collection notice**

- (1) A fine collection notice authorising redirection of a debt belonging to an enforcement debtor from a third person must be served on the third person to have effect.
- (2) On service of the notice on the third person, the debt is redirected in the hands of the third person to SPER to the extent of the amount stated in the notice.
- (3) However, this section does not limit the right of—
  - (a) the third person to dispute liability to pay all or part of the debt to the enforcement debtor; or
  - (b) another interested person including, for example, a person other than an enforcement debtor, to claim an entitlement to all or a part of the debt or to a charge or lien on it.
- (4) This section does not apply to a regular redirection of a regular debt belonging to an enforcement debtor from a financial institution.

### **98            Payment to enforcement debtor despite redirection**

- (1) This section applies if, after redirection of a debt in the hands of a third person—
  - (a) the third person acts with reasonable diligence to give effect to the redirection; and
  - (b) despite the third person acting with reasonable diligence, the third person deals with the redirected debt in a way that satisfies, as between the third person and the enforcement debtor, all or part of the redirected debt, including, for example, by payment to the enforcement debtor.



- (2) If, after acting under subsection (1), the amount still available for redirection is less than the amount owing to SPER, the registrar may vary or cancel the fine collection notice.

## **99 Discharge of the third person**

- (1) A payment to SPER made by a third person in compliance with a fine collection notice is a valid discharge of the person's liability to the enforcement debtor to the extent of the amount paid.
- (2) Subsection (1) applies even if, after payment, the fine collection notice is cancelled.

## **Division 6 Provisions about regular redirection from a financial institution account**

### **100 Application of div 6**

This division applies if—

- (a) an enforcement debtor has an account with a financial institution; and
- (b) another person (*depositor*) regularly deposits earnings into the account (a *regular deposit*).

### **101 Service of fine collection notice for regular redirection from a financial institution account**

- (1) This section applies if the registrar issues a fine collection notice for regular redirection from a financial institution account under section 75.
- (2) The notice must be served on the enforcement debtor and on the financial institution.
- (3) The notice does not have effect until the end of 7 days after the day on which the notice is served on the financial institution.

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- (4) The notice continues in force until the total amount stated in the notice is paid or the notice is cancelled or varied or expires according to its terms.

## **102 Financial institution to make payments**

- (1) For each regular deposit into the enforcement debtor's account while the fine collection notice for regular redirection is in force, the financial institution—
  - (a) within 2 days after the deposit, must deduct from the account the amount stated in the notice and pay it to SPER as stated in the notice; and
  - (b) may deduct from the account an administration charge and keep it as a contribution towards the administrative cost of making payments under the notice; and
  - (c) must give to the enforcement debtor a notice of the deductions and when they were made.
- (2) However, in applying subsection (1)(a) to the last deduction, the financial institution must deduct the amount, not more than the amount stated in the notice for deduction for each regular deposit, that results in the total amount deducted by the financial institution being the total amount to be deducted under the notice.
- (3) A deduction paid or kept by a financial institution under subsection (1) is a valid discharge of the financial institution's liability to the enforcement debtor to the extent of the deduction.

## **103 Offence of intentionally defeating notice for regular redirection from a financial institution account**

- (1) An enforcement debtor who is served with a copy of a fine collection notice for regular redirection from a financial institution account must ensure that enough funds remain in the enforcement debtor's account with the financial institution after each regular deposit for the deduction from the account of the amount stated in the notice.

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- (2) The enforcement debtor must notify SPER if—
    - (a) the depositor discontinues regular payments of earnings to the enforcement debtor; or
    - (b) the enforcement debtor closes the account or arranges for the depositor to pay the enforcement debtor in another way.
  - (3) An enforcement debtor who contravenes subsection (1) or (2) with intent to defeat a notice for regular redirection from a financial institution account commits an offence.

Maximum penalty for subsection (3)—20 penalty units.

## **Division 7                      Suspension of driver licence**

### **104      Criteria for suspending driver licence**

- (1) This division applies whether or not the enforcement debtor has a driver licence.
- (2) The registrar may suspend an enforcement debtor's driver licence under this division for a reason stated in subsection (3), (4) or (5).
- (3) The first reason is that the registrar is satisfied the enforcement debtor has—
  - (a) defaulted in paying instalments under an instalment payment notice; or
  - (b) failed to start or complete community service under a fine option order made under this Act; or
  - (c) taken no action to have the matter of the offence decided in a court.
- (4) The second reason is that the registrar is satisfied an enforcement officer has attempted unsuccessfully to enforce an enforcement warrant, including under section 69.
- (5) The third reason is that the registrar has issued an enforcement order in relation to the offence under section 34(4) and the

enforcement debtor has not paid the amount stated in the enforcement order within 28 days after the date of the order.

### **105 Suspension of driver licence**

- (1) If the registrar decides to suspend an enforcement debtor's driver licence the registrar must serve on the enforcement debtor a notice of intention to suspend the licence.
- (2) If the enforcement debtor does not pay the unpaid amount stated in the notice within 14 days, the enforcement debtor's driver licence is suspended.
- (3) The driver licence is suspended until the enforcement debtor pays the unpaid amount or the amount is otherwise discharged under this Act.

### **106 General effect of suspension of driver licence**

- (1) Despite any other Act, the suspension of a driver licence under section 105 operates to suspend the driver licence of an enforcement debtor who holds a driver licence issued outside Queensland while the person is in Queensland.
- (2) A renewal or replacement of a driver licence suspended under section 105 does not affect the suspension.
- (3) Also, the suspension of a driver licence under section 105 does not affect the powers a court or another person may exercise under another Act to suspend or cancel the licence.
- (4) If a person does not hold a driver licence, the person is also disqualified from holding or obtaining a driver licence until the person pays the unpaid amount or the amount is otherwise discharged under this Act.

### **107 Review of suspension of driver licence**

- (1) This section applies if an enforcement debtor's driver licence is suspended for 3 months or more.
- (2) As soon as practicable after the end of each 3 months of the suspension, the registrar must review the suspension.

- (3) If the registrar is satisfied the enforcement debtor is not taking steps to satisfy the unpaid amount stated in the notice of intention to suspend the driver licence, the registrar may issue an arrest and imprisonment warrant for the enforcement debtor for the amount, without notice to the enforcement debtor.

## **108 Effect of suspension of driver licence on vehicle insurance**

- (1) The suspension of a person's driver licence under this Act does not terminate a vehicle insurance policy.
- (2) Also, a claim under a vehicle insurance policy can not be refused only because a person's driver licence is suspended under this Act.
- (3) This section has effect despite anything to the contrary in a vehicle insurance policy or any other agreement.
- (4) In this section—

*vehicle insurance policy* means a policy of insurance for damage or loss caused by or arising out of the use or operation of a vehicle, but does not include a CTP insurance policy within the meaning of the *Motor Accident Insurance Act 1994*.

## **Division 7A Enforcement by vehicle immobilisation**

### **Subdivision 1 Criteria for vehicle immobilisation**

#### **108A Criteria for vehicle immobilisation**

A vehicle may be immobilised under this division if—

- (a) the vehicle is of a type that under section 108B may be immobilised under this division; and

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- (b) an enforcement debtor is the sole registered operator of the vehicle; and
- (c) the amount owing by the enforcement debtor is at least the amount prescribed under a regulation; and
- (d) the registrar is satisfied the enforcement debtor is not taking action to dispute the amount owed or part of it and any of the following applies in relation to the enforcement debtor—
  - (i) the enforcement debtor has failed to pay an amount stated in an enforcement order within 28 days after the date of the order;
  - (ii) an instalment payment notice has been cancelled;
  - (iii) a fine option order has been revoked;
  - (iv) a good behaviour order has been cancelled; and
- (e) the registrar is satisfied either—
  - (i) it is not possible or appropriate for another form of enforcement action under this Act to be applied to the enforcement debtor; or
  - (ii) another form of enforcement action has been attempted unsuccessfully under this Act in relation to the enforcement debtor.

### **108B Types of vehicles that may be immobilised**

- (1) The following vehicles may be immobilised under this division—
  - (a) a motor vehicle that has wheels;
  - (b) a trailer, including a caravan, built to be attached to a motor vehicle that has wheels.
- (2) However, the following vehicles may not be immobilised under this division—
  - (a) a motorised wheelchair;
  - (b) a motorised wheeled recreational device;

- (c) any of the following used wholly or primarily by a person with a disability or by the person's carer—
  - (i) a scooter;
  - (ii) a quad bike;
  - (iii) a motor vehicle that has been adapted to accommodate the disability.

## **Subdivision 2 Notice of intention to issue immobilisation warrant**

### **108C Registrar to serve notice of intention to issue immobilisation warrant**

If the registrar wants to immobilise 1 or more vehicles under this division, the registrar must serve the enforcement debtor with a notice of intention to issue an immobilisation warrant under section 146A.

## **Subdivision 3 Immobilisation warrant and related matters**

### **108D Issue and service of immobilisation warrant**

- (1) The registrar may issue a warrant under section 146B (*immobilisation warrant*) if, within 14 days after a notice of intention to issue an immobilisation warrant was served on the enforcement debtor, none of the following happens—
  - (a) the enforcement debtor pays in full the amount stated in the notice as owing by the enforcement debtor;
  - (b) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order;

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- (c) the enforcement debtor takes action to dispute part or all of the amount owing;
  - (d) a good behaviour order in relation to the enforcement debtor is made.
- (2) In deciding whether to issue an immobilisation warrant for a vehicle, the registrar may have regard to whether immobilising the vehicle would cause severe or unusual hardship to the enforcement debtor, the enforcement debtor's family or another person who uses the vehicle but has no capacity to ensure the enforcement debtor pays the amount owing.
- (3) A copy of the immobilisation warrant must be served on the enforcement debtor as soon as practicable after it is issued.

### **108E Registrar may cancel, suspend or vary immobilisation warrant**

- (1) A person claiming an interest in a vehicle that is or is about to be immobilised under an immobilisation warrant may apply to the registrar for the cancellation, suspension or variation of all or part of the warrant, including because of facts that arise or are discovered after the warrant was issued.
- (2) The application must be written and state the facts relied on by the applicant.
- (3) The registrar may, by order, cancel, suspend or vary an immobilisation warrant.

### **108F Effect of immobilisation warrant**

- (1) An immobilisation warrant for a vehicle authorises an enforcement officer to immobilise the vehicle stated in the warrant, without further notice to the enforcement debtor and without the enforcement debtor's consent, by attaching an immobilising device to the vehicle.
- (2) Under an immobilisation warrant, an enforcement officer has the additional powers stated in section 108I.



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- (3) On the issue of an immobilisation warrant, the amount owing by the enforcement debtor is increased to the total of the amount unpaid before the warrant was issued and the civil enforcement fee.

### **108G Who may enforce an immobilisation warrant**

An immobilisation warrant may be enforced by an enforcement officer.

### **108H Where and when an immobilisation warrant may or may not be enforced**

- (1) Under an immobilisation warrant for a vehicle, an immobilising device may be attached to the vehicle stated in the warrant if it is parked or stopped—
- (a) in a public place; or
  - (b) on property occupied by the enforcement debtor; or
  - (c) if the enforcement debtor is not an individual, at the enforcement debtor's place of business or registered office; or
  - (d) at any other premises, but only with the consent of the occupier of the premises.
- (2) The vehicle may be immobilised even if it is unattended.
- (3) An enforcement officer may enforce an immobilisation warrant at any reasonable time of the day or night.
- (4) An enforcement officer must not enforce an immobilisation warrant—
- (a) at a place where the vehicle, if immobilised, could impede the use of the place or the road network or be a risk to safety; or
  - (b) at a place where the enforcement officer reasonably believes the safety of the driver and any other occupants of the vehicle may be at risk, for example, at an isolated location; or

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- (c) if, before the immobilising device is attached to the enforcement debtor's vehicle—
  - (i) the enforcement debtor pays in full the amount stated in the immobilisation warrant as owing by the enforcement debtor; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor.
- (5) In this section—

*public place* means an area that is open to or used by the public and is developed for, or has as one of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise.

### **108I Additional powers under an immobilisation warrant**

- (1) For the purpose of enforcing an immobilisation warrant for a vehicle, an enforcement officer may also—
  - (a) enter and re-enter a public place; and
  - (b) enter and re-enter premises occupied by the enforcement debtor, without the enforcement debtor's consent; and
  - (c) enter and re-enter premises, other than premises mentioned in paragraph (b), with the consent of the occupier of the premises; and
  - (d) do anything else reasonably necessary to immobilise the vehicle.
- (2) However, an enforcement officer may, under subsection (1)(b), enter a part of any premises used only for residential purposes only if the occupier consents to the entry or entry is authorised under an immobilisation search warrant.
- (3) In this section—

*public place* means a place that is open to or used by the public, whether or not on payment of a fee.

### **108J Entry to ask occupier for consent to enter**

For the purpose of asking an occupier of premises for consent to enter, an enforcement officer may, without the occupier's consent or a warrant—

- (a) enter land around the premises to an extent that is reasonable to contact the occupier; or
- (b) enter part of the premises the enforcement officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

### **108K Entry with consent**

- (1) This section applies if an enforcement officer intends to ask an occupier of premises to consent to the enforcement officer or another enforcement officer entering the premises under section 108I.
- (2) Before asking for the consent, the enforcement officer must show the occupier the immobilisation warrant and tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the enforcement officer may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and

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- (c) the occupier gives the enforcement officer consent to enter and re-enter the premises and enforce the warrant; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the enforcement officer must immediately give a copy to the occupier.
- (6) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry or re-entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry or re-entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry or re-entry to prove the occupier consented.

### **108L Immobilisation search warrant**

- (1) This section applies if an enforcement officer reasonably believes that—
- (a) there may be at any premises a vehicle mentioned in an immobilisation warrant; and
  - (b) the vehicle has been relocated by or for the enforcement debtor in an attempt to avoid enforcement of the warrant.
- (2) The enforcement officer may apply to a magistrate or a justice of the peace (magistrates court), who is not an official within the meaning of section 12, for the issue of a search warrant (*immobilisation search warrant*) under this section.
- (3) The magistrate or justice (*issuer*) may refuse to consider the application until the enforcement officer gives the issuer all the information the issuer requires about the application in the way the issuer requires.

*Example—*

The issuer may require additional information about the application to be given by statutory declaration.

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- (4) The issuer may issue the warrant only if satisfied there are reasonable grounds for believing the matters mentioned in subsection (1)(a) and (b).
  - (5) The warrant must comply with section 146D.

### **108M Powers under immobilisation search warrant**

An enforcement officer has the following powers under an immobilisation search warrant—

- (a) power to enter and re-enter stated premises and to stay on the premises for the time reasonably necessary to search for the vehicle;
- (b) power to search for the vehicle;
- (c) power to use reasonable help for paragraphs (a) and (b).

### **108N Immobilisation notice**

As soon as practicable after immobilising a vehicle under an immobilisation warrant, an enforcement officer must attach a notice (*immobilisation notice*) under section 146C to a prominent place on the vehicle, for example, the windscreen of a motor vehicle.

### **108O Immobilisation period and access to vehicle**

- (1) An immobilising device and immobilisation notice may be attached to a vehicle stated in an immobilisation warrant for no longer than 5 days (the *immobilisation period*).
- (2) The enforcement debtor is not prevented from accessing the vehicle, for example, to retrieve personal property, during the immobilisation period.

### **108P When immobilising device may be removed before end of immobilisation period**

- (1) The registrar must direct an enforcement officer to remove the immobilising device and immobilisation notice as soon as

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practicable if, before the end of the immobilisation period, the registrar is satisfied that—

- (a) the enforcement debtor has paid in full the amount stated in the immobilisation warrant as owing by the enforcement debtor; or
  - (b) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decided to allow payment of the amount owing by instalments or makes a fine option order; or
  - (c) a good behaviour order has been made against the enforcement debtor; or
  - (d) the immobilised vehicle is impeding the use of a place or the road network or is a risk to safety.
- (2) The registrar may also direct an enforcement officer to remove the immobilising device and immobilisation notice as soon as practicable if, before the end of the immobilisation period, the registrar is satisfied that if the immobilising device is not removed before the end of the immobilisation period, severe or unusual hardship would be caused to—
- (a) the enforcement debtor or the enforcement debtor's family; or
  - (b) another person who uses the vehicle but has no capacity to ensure the enforcement debtor pays the amount owing.

### **108Q Removal of immobilising device immediately after immobilisation period ends**

An enforcement officer must remove the immobilising device and immobilisation notice from the vehicle immediately after the immobilisation period for the vehicle ends.

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**108R Direction by registrar to seize vehicle under enforcement warrant**

The registrar may direct an enforcement officer to seize a vehicle under an enforcement warrant if—

- (a) the immobilisation period has ended or the immobilising device and immobilisation notice have been removed from the vehicle before the end of the immobilisation period; and
- (b) none of the following has happened—
  - (i) the enforcement debtor has paid the amount stated in the immobilisation warrant;
  - (ii) the registrar has decided, on application mentioned in section 41(b) or (c) by the enforcement debtor, to allow payment of the amount owing by instalments or makes a fine option order;
  - (iii) a good behaviour order is made against the enforcement debtor.

**108S Direction by registrar to re-enforce current immobilisation warrant**

The registrar may direct an enforcement officer to re-enforce a current immobilisation warrant if, after the warrant is issued—

- (a) an instalment payment notice is issued and is subsequently cancelled; or
- (b) a fine option order is made against the enforcement debtor and is subsequently revoked; or
- (c) a behaviour order is made against the enforcement debtor and is subsequently cancelled.

**108T Return of immobilisation warrant**

- (1) An enforcement officer must, within a reasonable time, give to the registrar a return about the enforcement or otherwise of an immobilisation warrant.

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- (2) The return must be made by giving to the registrar a certificate signed by the enforcement officer stating what was done to enforce the warrant, or what other action, if any, was taken.

### **108U Notice of damage—immobilisation warrant**

- (1) This section applies if an enforcement officer damages property when exercising or purporting to exercise a power under an immobilisation warrant.
- (2) The officer must immediately give written notice of particulars of the damage to the person who appears to the officer to be the owner of the property.
- (3) If the officer believes the damage was caused by a latent defect in the property or circumstances beyond the officer's control, the enforcement officer may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the officer reasonably believes is trivial.
- (6) In this section—  
*owner*, of property, includes the person in possession or control of it.

### **108V Compensation—immobilisation warrant**

- (1) A person may claim from the State the cost of repairing or replacing property damaged by an enforcement officer when exercising or purporting to exercise a power under an immobilisation warrant.
- (2) Without limiting subsection (1), compensation may be claimed for a loss or expense incurred in complying with a requirement made of the person under section 114.



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- (3) Compensation may be claimed and ordered to be paid in a proceeding—
    - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
    - (b) for an offence against this Act brought against the person claiming compensation.
  - (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

#### **108W Effect of immobilisation on vehicle insurance**

- (1) A claim under a vehicle insurance policy for an event that occurred during the immobilisation period can not be refused merely because the vehicle was immobilised under this division.
- (2) Subsection (1) applies despite anything to the contrary in a vehicle insurance policy or other agreement.

### **Subdivision 4 Offences**

#### **108X Offences of concealing, selling, transferring or otherwise dealing with vehicle with particular intent**

- (1) An enforcement debtor who is the registered operator of a vehicle mentioned in a notice of intention to issue an immobilisation warrant must not conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the issue of an immobilisation warrant for the vehicle.

Maximum penalty—200 penalty units or 3 years imprisonment.

- (2) An enforcement debtor who is the registered operator of a vehicle mentioned in an immobilisation warrant must not conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the enforcement of the warrant.

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Maximum penalty—200 penalty units or 3 years imprisonment.

### **108Y Offence of interfering with or removing immobilised vehicle**

A person must not interfere with, or remove, an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act.

Maximum penalty—200 penalty units or 3 years imprisonment.

### **108Z Offence of tampering with or removing immobilising device or immobilising notice**

A person must not, without reasonable excuse, tamper with, or remove, or attempt to remove, an immobilising device or an immobilisation notice attached to a vehicle under this Act.

Maximum penalty—50 penalty units.

## **Division 8 Other enforcement options**

### **109 Making of fine option order after enforcement warrant**

- (1) This section applies if an enforcement debtor agrees under section 69 to apply under this Act for a fine option order.
- (2) Sections 44 and 46 to 50 apply to the application as if it had been made after the issue of an enforcement order.
- (3) The making of the fine option order suspends the operation of the enforcement warrant for so long as the enforcement debtor complies with the fine option order.
- (4) However, if the enforcement debtor contravenes the fine option order, the registrar may cancel the order and the enforcement warrant and issue an arrest and imprisonment

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warrant for the enforcement debtor, without notice to the enforcement debtor.

## **110 Registration of interests**

- (1) The registrar may register with the registrar of titles or any other person required or permitted to keep a register about dealing with property, an interest in land or an interest in any other property if—
  - (a) the total amount owing by the enforcement debtor is—
    - (i) for an interest in a motor vehicle—more than \$500; or
    - (ii) otherwise—more than \$1000; and
  - (b) the registrar issues an enforcement warrant for the amount.
- (2) The registration of an interest in a motor vehicle under subsection (1) does not prevent the registrar issuing any of the following in relation to the vehicle—
  - (a) a notice of intention to immobilise a vehicle;
  - (b) an immobilisation warrant;
  - (c) an enforcement warrant to seize and sell property.
- (3) On registration of an interest in land or other property, the amount accrues interest at the annual rate prescribed under the *Civil Proceedings Act 2011*, section 59(3).
- (4) Also, the amount and any accruing interest becomes a charge on the debtor's interest in the land or other property ranking in priority according to the time of registration of the interest.
- (5) Subsection (4) applies subject to any other Act.

## **Division 9                      Order of satisfaction of fines etc.**

### **111      Order of satisfaction of fines for infringement notice offences**

- (1) This section applies if an enforcement debtor pays all or part of the amount payable under an enforcement order, enforcement warrant, immobilisation warrant, fine collection notice or an arrest and imprisonment warrant for an infringement notice offence.
- (2) The amount must be applied as follows—
  - (a) first, to any amount required to be paid as fees;
  - (b) then to the amount of the fine.
- (3) However, if the enforcement debtor also has an amount unpaid under an enforcement order to which section 112 applies, the amount paid must be applied in accordance with section 112 until all relevant amounts under that section are paid before it is applied under subsection (2).

### **112      Order of satisfaction of other amounts**

- (1) This section applies if an enforcement debtor pays all or part of an unpaid amount payable under an enforcement order, enforcement warrant, immobilisation warrant, fine collection notice or an arrest and imprisonment warrant other than for an infringement notice offence.
- (2) Subject to section 113, the amount must be applied towards satisfying the unpaid amount in the following order—
  - (a) compensation;
  - (b) restitution;
  - (c) damages;
  - (d) a fixed portion of a penalty;
  - (e) an offender levy;
  - (f) court fees;

- (g) witnesses' expenses payable under the decision;
  - (h) professional costs;
  - (i) any other fees or costs;
  - (j) any other amount ordered to be paid, including a fine;
  - (k) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 117(4);
  - (l) any amount liable to be paid to the State under the *Victims of Crime Assistance Act 2009*, section 191(4).
- (3) For subsection (2)(j), subject to any direction given in relation to the amount, the amounts must be applied in the way fines, penalties or forfeitures are applied.
- (4) This section applies subject to any direction in the Act under which the relevant amount is ordered to be paid.

### **113 Order of satisfaction if more than 1 enforcement order**

- (1) This section applies if an enforcement debtor pays all or part of an unpaid amount stated in an enforcement order, enforcement warrant, immobilisation warrant, fine collection notice or an arrest and imprisonment warrant other than for an infringement notice offence and there are 2 or more orders, warrants or notices to which the amount could be applied.
- (2) The amount must first be applied to satisfy all outstanding amounts in the first relevant category in section 112(2) in the order in which they became payable.
- (3) After all amounts in the first relevant category are satisfied, any remaining amount must be applied to satisfy unpaid amounts in the next relevant category and then to each other relevant category in the same way until each relevant category is satisfied.

*Examples for subsection (3)—*

- 1 If the enforcement debtor has been ordered to pay the following amounts under a court order—

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- (a) \$200 for a fine, \$80 costs of court, \$50 witness expenses, \$250 professional fees and \$300 restitution, under an order made on 2 January 1999;
- (b) \$500 for a fine, \$80 costs of court, \$50 witness expenses, \$600 professional fees and \$350 restitution, under an order made on 4 January 1999;

any part payments must first satisfy the restitution amounts ordered on 2 January 1999 and 4 January 1999 in that order before any other part payments may be applied to satisfy amounts outstanding in the next relevant category.

2 If the enforcement debtor must pay the following outstanding amounts—

- (a) \$172 (\$130 for a speeding fine and \$42 for the SPER registration fee) under an enforcement order made on 1 January 1999;
- (b) \$200 for a fine, \$80 costs of court, \$50 witness expenses, \$250 professional fees and \$300 restitution, under a court order made on 2 January 1999;
- (c) \$222 (\$180 for a speeding fine and \$42 for the SPER registration fee) under an enforcement order made on 3 January 1999;
- (d) \$500 for a fine, \$80 costs of court, \$50 witness expenses, \$600 professional fees and \$350 restitution, under a court order made on 4 January 1999;

any part payments must first be applied to discharge the amounts ordered as restitution on 2 January 1999 and 4 January 1999, in order, before any other part payment may be applied to satisfy amounts outstanding in the next relevant category for the orders made on 2 and 4 January 1999. Once those orders are satisfied, the part payments must then be applied to satisfy all outstanding amounts for the speeding fines.

## **Division 10                      General provisions**

### **114      Power of person serving fine collection notice or enforcing warrant to demand name and address etc.**

- (1) An enforcement officer serving a fine collection notice or enforcing a warrant under this Act may require a person the enforcement officer reasonably suspects to be the person

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named in the notice or warrant to provide any of the following information that is relevant to the notice or warrant or the exercise of powers under this Act because of the notice or warrant—

- (a) the person's full name and address;
  - (b) the person's employment details;
  - (c) the person's bank account details;
  - (d) the person's driver licence number;
  - (e) who owns specified property;
  - (f) the person's pension details;
  - (g) the person's income and expenditure;
  - (h) the person's date of birth.
- (2) Also, an enforcement officer may require the person to provide evidence to the officer of the correctness of the information if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the information or to otherwise be able to give the evidence.
- (3) When making a requirement under subsection (1), the enforcement officer must warn the person that, unless the person has a reasonable excuse, it is an offence not to provide the information required.
- (4) When making a requirement under subsection (2), the enforcement officer must warn the person that, unless the person has a reasonable excuse, it is an offence to fail to provide evidence of the correctness of information provided by the person.
- (5) An enforcement officer who is enforcing an immobilisation warrant may require a person the enforcement officer reasonably suspects to be the person named in the warrant to answer a question relevant to the warrant or the exercise of powers under this Act because of the warrant.

*Example of a question under this subsection—*

a question to establish a vehicle's location

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- (6) When making a requirement under subsection (5), the enforcement officer must warn the person that, unless the person has a reasonable excuse, it is an offence not to provide the answer required.
- (7) A person must comply with a requirement under subsection (1), (2) or (5), unless the person has a reasonable excuse.  
Maximum penalty—10 penalty units.
- (8) A person does not commit an offence against subsection (7) if the person given the requirement is not proved to be the person named in the notice or warrant.
- (9) Before exercising a power under subsection (1) or (5) in relation to a person, the enforcement officer must show the person the identity card given to the enforcement officer under section 10.

## **115 Effect of particular proceedings**

- (1) If, for an offence—
  - (a) a person served with an infringement notice—
    - (i) pays the amount owing under an enforcement order for the offence in full; or
    - (ii) applies to pay the amount owing under an enforcement order for the offence by instalments; or
    - (iii) applies to convert the amount owing under an enforcement order for the offence to unpaid hours of community service under a fine option order; or
  - (b) an enforcement warrant, an immobilisation warrant or an arrest and imprisonment warrant is enforced against a person served with an infringement notice for the amount owing under an enforcement order for the offence;

the proceedings that may be brought against, and the penalties that may be imposed on, the person for the offence are limited to proceedings and penalties that could be brought or imposed



if the person had already been convicted of, and punished for, the offence.

- (2) Subsection (1)(a) stops applying if the enforcement order is withdrawn or cancelled after the amount is paid.
- (3) The making of the enforcement order is not a conviction for the offence.
- (4) Payment of an amount for the offence is not an admission for any civil or criminal proceeding arising out of the event for which the infringement notice was issued.
- (5) The Governor may waive all or part of an unpaid amount stated in an enforcement order, whether or not any part of the amount is payable to someone other than the State, and on the giving of the waiver the enforcement order stops having effect to the extent of the waiver.

#### **116 Offence of obstructing enforcement officer**

A person must not threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act.

Maximum penalty—50 penalty units or 1 year's imprisonment.

#### **117 Offence of defacing or removing seizure tags**

A person must not interfere with an item seized by an enforcement officer left at the place of seizure or a seizure tag or sticker placed on it.

Maximum penalty—50 penalty units.

## Part 6 Imprisonment

### 118 Good behaviour order when imprisonment not appropriate

- (1) This section applies if—
  - (a) an enforcement warrant, an immobilisation warrant or a fine collection notice has been or may be issued for an enforcement debtor for an unpaid amount; and
  - (b) the registrar is satisfied that—
    - (i) the enforcement debtor is not suitable for performing community service under a fine option order; and
    - (ii) the enforcement debtor can not pay or continue to pay all or part of the unpaid amount; and
    - (iii) in the particular circumstances, it may be inappropriate to enforce the payment of the amount by issuing an arrest and imprisonment warrant for the enforcement debtor.
- (2) For subsection (1)(b), in deciding whether the registrar is satisfied of the matters mentioned in that paragraph, the registrar may have regard to any relevant advice, including expert advice, the registrar considers appropriate.
- (3) The registrar may, with the consent of the enforcement debtor, order that the enforcement debtor must be of good behaviour for the period, of not longer than 3 years, stated in the order (the **good behaviour order**) on the conditions the registrar considers appropriate.
- (4) As soon as practicable after making the good behaviour order, the registrar must give a copy of the order to the enforcement debtor.
- (5) The good behaviour order must include information about—
  - (a) the enforcement debtor's right to apply to have the order cancelled or varied; and

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- (b) how the application may be made; and
- (c) the consequences and enforcement action the registrar may take if the good behaviour order is cancelled.
- (6) The enforcement debtor may apply to SPER to have the good behaviour order cancelled or varied.
- (7) The application must be made—
- (a) in the approved form; or
- (b) in another way acceptable to SPER.
- Examples of other ways an application may be made that may be acceptable to SPER—*
- by telephone
  - by use of the internet
- (8) If the enforcement debtor applies for the good behaviour order to be cancelled or the registrar is satisfied the enforcement debtor has contravened the good behaviour order, including, for example, by incurring a further fine, the registrar may, without notice to the enforcement debtor, cancel the order.
- (9) If the registrar cancels the good behaviour order—
- (a) the unpaid amount becomes payable; and
- (b) the registrar may take any enforcement action the registrar could have taken if the good behaviour order had not been made.
- (10) If the period stated in the good behaviour order ends without the registrar cancelling the order, the unpaid amount is no longer payable.
- (11) To remove any doubt, it is declared that the registrar cannot make a good behaviour order for an enforcement debtor for an amount ordered to be paid under the *Penalties and Sentences Act 1992* by way of restitution or compensation.

## **119 Enforcement by imprisonment**

- (1) This section applies if, after attempting to enforce an enforcement warrant or immobilisation warrant against an

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enforcement debtor, the registrar is satisfied the unpaid amount under the warrant can not be satisfied in any other way authorised under this Act.

- (2) This section also applies if the registrar issues an instalment payment notice or fine collection notice or makes a fine option order for an enforcement debtor after attempting to enforce an enforcement warrant or immobilisation warrant and the enforcement debtor fails to comply with the notice or order.
- (3) The registrar may issue a warrant (*arrest and imprisonment warrant*), directed to all police officers, for the arrest and imprisonment of the enforcement debtor for the period stated in the warrant.
- (4) The period of imprisonment is to be worked out for the unpaid amount in the same way as the period of imprisonment for an amount stated in an enforcement order is worked out under section 52A.
- (5) However, if the registrar issues the warrant without first taking action under part 5 for which a civil enforcement fee may be added to an unpaid amount, the unpaid amount for subsection (4) is increased by the amount of the warrant issue fee prescribed under a regulation.
- (6) The warrant stops having effect if the unpaid amount is paid before the enforcement debtor is imprisoned.
- (7) The period of imprisonment an enforcement debtor must serve under the warrant is cumulative on any other period of imprisonment the debtor must serve under any other warrant or an order of a court.

## **120 Satisfaction of fine by imprisonment**

- (1) If a person serves the total period of imprisonment under an arrest and imprisonment warrant, the unpaid amount stated in the warrant is taken to be satisfied.
- (2) If, after an arrest and imprisonment warrant is issued, but before the person named in the warrant is imprisoned, the

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person pays part of the unpaid amount stated in the warrant, the warrant has effect as if the period of imprisonment stated in it were the balance remaining to be paid divided by—

- (a) for a court ordered amount—the relevant cut-out rate for the court order, rounded down to the nearest whole number and expressed as a number of days; or
- (b) for an infringement notice offence—the cut-out rate for the infringement notice offence, rounded down to the nearest whole number and expressed as a number of days.

*Example for subsection (2)(a)—*

B is fined \$1000 and ordered to serve 14 days imprisonment if the fine is not paid. Before B is imprisoned, B pays \$600 of the fine. The cut-out rate is \$71.42 and the period for which B may be imprisoned is reduced to 5 days.

*Example for subsection (2)(b)—*

J owes SPER a total of \$350 for an infringement notice offence and charges for which J may be imprisoned for 6 days. Before J is imprisoned, J pays \$110. If the cut-out rate is \$60, the period for which J may be imprisoned is 4 days.

- (3) If a person who is imprisoned under an arrest and imprisonment warrant wants to pay the balance of the unpaid amount stated in the warrant, the balance is the amount worked out by multiplying the number of days remaining to be served by the relevant cut-out rate.

*Example for subsection (3)—*

B is imprisoned for failing to pay a fine of \$1000. After serving 5 days imprisonment, B decides to pay the balance of the amount. If the cut-out rate is \$60, B must pay \$660.

- (4) On the satisfaction of the unpaid amount under this section, the person's imprisonment ends and the person must be released.

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## **121 Order of satisfaction of fines if enforcement debtor imprisoned**

If an enforcement debtor is imprisoned, the period of imprisonment discharges the unpaid amount in the reverse order to the order of satisfaction that would have applied under part 5, division 9 if the person had not been imprisoned.

# **Part 7 General provisions about fine option orders**

## **122 Requirements of fine option order**

- (1) A fine option order must contain requirements that the person (the *relevant person*) named in the order—
  - (a) report to an authorised corrective services officer at the place, and within the time, stated in the order; and
  - (b) perform the community service directed by an authorised corrective services officer—
    - (i) for the number of hours stated in the order; and
    - (ii) at the times directed by the officer; and
    - (iii) in a way satisfactory to the officer; and
  - (c) comply with each reasonable direction of an authorised corrective services officer; and
  - (d) report to, and receive visits from, an authorised corrective services officer as directed by the officer; and
  - (e) notify an authorised corrective services officer of a change of the relevant person's place of residence or employment within 2 business days after the change happens; and
  - (f) must not leave or stay out of Queensland without the permission of an authorised corrective services officer.

- (2) The number of hours of community service stated in a fine option order must be performed within 1 year, or another time allowed in the order, after the making of the order (the *compliance period*).
- (3) A direction given under subsection (1)(b)(ii) applies to all fine option orders made for the relevant person by the registrar on the same day.
- (4) Also, a fine option order must be accompanied by a notice stating that failure to comply with the order, or revocation of the order, may result in the imprisonment of the relevant person or suspension of the person's driver licence, or both.

### **123 Directions under fine option order**

A direction given by an authorised corrective services officer under a fine option order must, as far as practicable, avoid—

- (a) conflicting with the relevant person's religious beliefs; and
- (b) interfering with any times during which the relevant person usually works or attends a school or other educational or training establishment; and
- (c) interfering with the relevant person's family responsibilities.

### **124 Extension of period of fine option order**

- (1) A relevant person or an authorised corrective services officer may apply to the registrar for an extension of the compliance period.
- (2) The application may only be made during the compliance period.
- (3) The registrar may—
  - (a) decide the application in the absence of the relevant person; and

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- (b) if satisfied it is reasonable in the circumstances to extend the compliance period, extend the compliance period by not more than 1 year.

## **125 Community service to be performed cumulatively**

- (1) All community service required to be performed by a relevant person under a fine option order under this Act is to be performed cumulatively with any community service required to be performed under a community service order or a fine option order made for the person by a court under another Act.
- (2) If 2 or more fine option orders that require a relevant person to perform community service are in force at the same time, the community service must be performed in the sequence in which the orders were made.

## **126 Performance of community service to be credited against fine etc.**

If a relevant person performs community service under a fine option order, the unpaid amount to which the fine option order relates is to be reduced by an amount worked out by multiplying the hours of community service performed by the cut-out rate for a fine option order.

## **127 Payments and application of payments**

- (1) This section applies if, because of this Act, an enforcement order is suspended on the making of a fine option order.
- (2) Subject to subsection (3), and despite the suspension of the enforcement order so far as it requires the payment of the unpaid amount stated in the order, the fine or unpaid amount, or a part of either of them, may be paid.
- (3) The fine or other amount must be paid to SPER.
- (4) If, after a fine option order is made, payment of part of the fine or amount originally required to be paid is made, the



payment must be applied in accordance with part 5, division 9.

- (5) Also, if after a fine option order is made, a payment is applied to the unpaid amount to which the fine option order relates, the payment reduces the number of hours of community service remaining to be performed by the relevant person under the order by the number obtained by dividing the amount of the payment by the cut-out rate for a fine option order, expressed in hours.

*Example for subsection (5)—*

When a fine option order was made the unpaid amount of the relevant fine was \$1500. If the cut-out rate is \$15, the number of hours community service to be performed is 100 hours. If the person pays \$150, the number of hours of community service remaining to be performed is reduced by 10 hours.

- (6) If the payment is intended to discharge the fine option order, the payment must be accompanied by a certificate signed by an authorised corrective services officer stating the number of hours community service the relevant person has performed under the fine option order and the amount payable to discharge the order.

## **128 Failing to comply with fine option order**

- (1) If, while a fine option order is in force, an authorised corrective services officer (*supervisor*), or a person authorised for the purposes of this section by the chief executive (corrective services) (also a *supervisor*), reasonably believes the relevant person has contravened a requirement of the order, the supervisor may give the relevant person a notice under this section requiring the relevant person to—
  - (a) stop contravening the order; or
  - (b) give the supervisor a reasonable explanation for the contravention within a stated time, of at least 5 days but not more than 14 days.
- (2) The notice must—
  - (a) be in the approved form; and

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- (b) state the particulars of the contravention; and
  - (c) state that failure to give a reasonable explanation for the contravention may result in the fine option order being revoked without notice to the person.
- (3) A notice under subsection (1) may relate to 2 or more fine option orders.
  - (4) If the supervisor is not satisfied a reasonable explanation has been given within the stated time, the supervisor must give to SPER a fine option order breach notice.

## **129 Revocation of fine option order**

- (1) The registrar may revoke a fine option order for which the registrar is given a fine option order breach notice if satisfied the relevant person concerned has contravened the order without reasonable excuse.
- (2) However, the registrar must not revoke a fine option order under subsection (1) unless the registrar has first considered a report of the chief executive (corrective services) stating—
  - (a) how the relevant person has contravened the order; or
  - (b) that the chief executive (corrective services) is satisfied the relevant person can not perform work under the order or is otherwise not suitable to be engaged in work under a fine option order.
- (3) When revoking a fine option order, the registrar may also revoke any other fine option orders made against the relevant person.
- (4) The registrar must give notice of the revocation to the relevant person and may give the notice in the same way as for an enforcement order.
- (5) The notice of revocation must state that the relevant person may apply under section 130 within a stated reasonable time, of at least 14 days, for a review of the decision to revoke the fine option order.

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- (6) The revocation of a fine option order does not take effect until the end of the period for applying for a review of the decision to revoke the order or, if the relevant person applies for a review under section 130, the end of the day the relevant court registrar decides under that section not to reinstate the fine option order.
  - (7) On the revocation of the fine option order taking effect under subsection (6)—
    - (a) the suspension of the relevant enforcement order ends; and
    - (b) the registrar may issue an enforcement warrant or an arrest and imprisonment warrant for the enforcement debtor for the unpaid amount stated in the fine option order breach notice.

### **130 Review of revocation of fine option order**

- (1) A person dissatisfied by a decision under section 129 to revoke a fine option order made for the person may, within the time stated in a notice of revocation of the fine option order, apply in writing to the registrar of the Magistrates Court (*relevant court registrar*) nearest to the person's residence for a review of the revocation.
- (2) The application must state the reasons why the fine option order should be reinstated.
- (3) If the relevant person applies for a review of the decision to revoke the fine option order, the operation of the revocation is suspended until the application is decided.
- (4) If the relevant court registrar is satisfied the fine option order should not have been revoked, the relevant court registrar may reinstate the fine option order.
- (5) The relevant court registrar may review a decision to revoke a fine option order in the absence of, and without notice to, the applicant for the review.
- (6) A decision of the relevant court registrar on the review is final.

## Part 8 Reciprocal enforcement of fines

### 131 Definitions for pt 8

In this part—

*conviction* means a finding of guilt, or the acceptance of a plea of guilty, by a court, whether before or after the commencement of this part, in a proceeding for an offence, and includes an enforcement order or a similar order under a law of another State.

*fine* includes an amount stated in an enforcement order or a similar order under a law of another State.

*Queensland fine* means—

- (a) a fine payable under a conviction of a Queensland court; or
- (b) an amount payable under an enforcement order under this Act.

*reciprocating court* means a court declared under section 132 to be a reciprocating court for this Act.

*relevant officer* of a reciprocating court means the registrar, however called, of the reciprocating court.

### 132 Declaration of reciprocating court

If another State has laws providing for the enforcement in that State of a Queensland fine, the Governor in Council may, under a regulation, declare a court that exercises criminal jurisdiction in the other State to be a reciprocating court for this Act.

### 133 Enforcement of Queensland fine by reciprocating court

- (1) SPER may, on the registrar's initiative or on the request of the registrar of a Queensland court, give to the relevant officer of

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the reciprocating court a request for the enforcement of a particular Queensland fine in that State.

- (2) An amount received from a reciprocating court in satisfaction of all or part of a Queensland fine must be applied as if the amount had been paid to SPER by the person by whom the fine was payable in satisfaction of all or part of the fine.
- (3) If, after a request is made under subsection (1), SPER receives an amount in satisfaction of all or part of the fine from someone other than the relevant officer of the reciprocating court to whom the request was made, SPER must, as soon as practicable, notify the relevant officer of the amount of the payment.

### **134 Enforcement of fine imposed by reciprocating court**

- (1) This section applies if—
  - (a) under a conviction of a reciprocating court, a fine is payable by a person having or appearing to have property in Queensland; and
  - (b) SPER receives a request from the relevant officer of the reciprocating court for the enforcement of the fine; and
  - (c) the request is accompanied by—
    - (i) a copy, certified by the relevant officer to be correct, of the conviction; and
    - (ii) a certificate by the relevant officer stating the amount of the fine that remains unpaid.
- (2) The registrar must register the certified copy of the conviction and write the date of registration on it.
- (3) On registration of the conviction—
  - (a) the conviction is, for this part, taken to be a conviction of a Queensland court; and
  - (b) the registrar must make an enforcement order under this Act for the purpose of recovering the amount stated as unpaid in the certificate relating to the conviction.

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- (4) If, after SPER receives a request under this section in relation to a fine payable under a conviction of a reciprocating court, SPER receives a notification from the relevant officer of the reciprocating court of payment of an amount in satisfaction of all or part of the amount of the fine—
  - (a) the registrar must register particulars of the payment; and
  - (b) the payment is, for the purposes of enforcement action under this Act, taken to be a payment under an enforcement order made under this section.
- (5) The registrar must pay the amount of any fine recovered by the registrar under the enforcement order into the consolidated fund, unless the amount must be dealt with in another way under an agreement between the Minister and the relevant Minister of the other State.
- (6) A document that appears to have been signed by the relevant officer of a reciprocating court is taken to have been signed by the relevant officer, unless the contrary is proved.

## **Part 9                      Miscellaneous**

### **Division 1                      Content of particular notices, orders and warrants**

#### **135      Default certificate for infringement notice offence**

A default certificate for an infringement notice offence must be in the approved form and state the following—

- (a) the full name and address of the person liable to pay the fine for the offence;
- (b) the offence;

- (c) an infringement notice was, on a stated day, served on the alleged offender for the offence;
- (d) for an infringement notice offence involving a vehicle, the amount the administering authority paid to establish ownership of the vehicle;
- (e) before the certificate was given to SPER for registration, the alleged offender did not—
  - (i) pay to the administering authority the amount stated in the notice as the unpaid amount for the offence; or
  - (ii) apply to the administering authority to pay the fine by instalments; or
  - (iii) make to the administering authority an election to have the matter of the offence decided in a Magistrates Court;
- (f) a proceeding has not been started against the alleged offender for the offence;
- (g) a proceeding against the alleged offender for the offence has not been withdrawn under section 28;
- (h) anything else prescribed under a regulation.

### **136 Instalment payment notice**

- (1) A notice of registration of instalment payments (*instalment payment notice*) must be in the approved form and state the following—
  - (a) the full name and address of the person liable to pay the instalments;
  - (b) the offence;
  - (c) the unpaid amount;
  - (d) the amount to be paid for each instalment;
  - (e) when each instalment must be paid and how it is to be paid;

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- (f) if the person has an unpaid amount under an instalment payment notice (an *earlier instalment payment notice*) given to the person earlier—
  - (i) the offence to which the earlier instalment payment notice related; and
  - (ii) the unpaid amount under the earlier instalment payment notice; and
  - (iii) that the amount to be paid for each instalment under this instalment payment notice (the *current instalment payment notice*) includes an amount paid to satisfy the earlier instalment payment notice; and
  - (iv) that the requirement to pay instalments under the earlier instalment payment notice ends on the giving of the current instalment payment notice to the person;
- (g) if instalment payments are not made as required, the registrar may cancel the instalment payment notice without further notice;
- (h) if the instalment payment notice is cancelled and an enforcement order has not been made—
  - (i) an enforcement order may be made against the person for the unpaid amount; and
  - (ii) a registration fee prescribed under a regulation will be added to the unpaid amount;
- (i) if an instalment payment notice issued after the making of an enforcement order is cancelled—
  - (i) an enforcement warrant, immobilisation warrant, a fine collection notice or an arrest and imprisonment warrant may be issued against the person for the unpaid amount; and
  - (ii) a registration fee or, if relevant, the civil enforcement fee, will be added to the unpaid amount; and



- (iii) the person's driver licence, if the person holds one, may be suspended without further notice;
  - (j) anything else prescribed under a regulation.
- (2) If a person who has an earlier instalment payment notice is given a current instalment payment notice that states the information mentioned in subsection (1)(f), any previous arrangement to pay instalments under the earlier instalment payment notice ends on the giving of the current instalment payment notice to the person.
- (3) For subsections (1)(f) and (2), a reference to an earlier instalment payment notice includes an instalment payment notice given to a person before the commencement of this subsection.

### **137 Enforcement order**

- (1) An enforcement order must be in the approved form and state the following—
- (a) the full name and address of the person against whom it is intended to enforce the order;
  - (b) if relevant, the offence;
  - (c) if the enforcement order relates to an infringement notice—the infringement notice number;
  - (d) the amount owing;
  - (e) that the person must, within 28 days after the date of the order—
    - (i) pay the amount stated in the order in full to SPER; or
    - (ii) apply to SPER in the approved form for approval to pay the amount by instalments of not less than the minimum instalment; or
    - (iii) if no fine option order has been made for the amount, apply to SPER for conversion of the amount to hours of unpaid community service under a fine option order; or

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- (iv) if the order relates to an infringement notice offence, make to the administering authority an election to have the matter of the offence decided in a Magistrates Court;
- (f) that if the person does not take action under paragraph (e), the registrar may—
  - (i) issue an enforcement warrant authorising an enforcement officer to seize and sell real and personal property in which the person has a legal or beneficial interest, to satisfy the amount unpaid and the civil enforcement fee; or
  - (ii) issue a fine collection notice for the redirection of all or part of a debt owed to the person or for the regular redirection of all or part of a regular debt, including regular redirection from a financial institution account, and the civil enforcement fee; or
  - (iii) issue a fine collection notice for the redirection of the person's earnings and the civil enforcement fee; or
  - (iv) issue an enforcement warrant imposing a charge on property, for example, annuities, debentures, stocks and other property and the civil enforcement fee; or
  - (v) issue an arrest and imprisonment warrant for the person for the period stated in the enforcement order; or
  - (vi) issue an immobilisation warrant empowering the immobilisation of a vehicle of which the enforcement debtor is the registered operator;
- (g) that the person's driver licence, if the person holds one, may be suspended until the amount is paid or otherwise discharged or the person may be prevented from applying for or obtaining a driver licence;
- (h) that if an enforcement officer returns an enforcement warrant to seize and sell property of an individual

because the amount unpaid and the civil enforcement fee can not be satisfied under the warrant, the registrar may issue an arrest and imprisonment warrant for the person for the period stated in the enforcement order;

- (i) that the registrar may also register with the registrar of titles or any other person required or permitted to keep a register about dealing with property, an interest in land or an interest in any other property for the amount outstanding if the total amount owing is—
  - (i) for an interest in a motor vehicle—more than \$500; or
  - (ii) otherwise—more than \$1000.
- (2) The enforcement order must also state that the enforcement debtor may, within 28 days after the date of the order, contact SPER for assistance to decide whether alternative arrangements can be made for payment or discharge of the amount.

### **138 Notice accompanying a fine option order**

For section 122(4), a notice accompanying a fine option order must be in the approved form and state that failure to comply with the order, or revocation of the order, may result in the driver licence of the alleged offender being suspended or the imprisonment of the alleged offender or both.

### **139 Fine option order breach notice**

A notice (*fine option order breach notice*) for enforcing a fine converted to a fine option order must be in the approved form and state the following—

- (a) the full name and address of the person ordered to perform unpaid community service under the order;
- (b) the offence;
- (c) if relevant, the infringement notice number;

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- (d) how many hours of unpaid community service the person performed under the order;
- (e) the total amount owing because the person did not comply with the fine option order.

#### **140 Enforcement warrant to seize and sell property**

An enforcement warrant to seize and sell property must include the following—

- (a) the full name and address of the enforcement debtor;
- (b) if relevant, the offence;
- (c) if the enforcement warrant relates to an infringement notice, the infringement notice number;
- (d) the amount owing.

#### **141 Enforcement warrant imposing a charge on property**

An enforcement warrant imposing a charge on property must, in addition to the details required under section 140, include the following—

- (a) a description of the charged property;
- (b) the name of the person who issued or administers the charged property;
- (c) anything else prescribed under a regulation.

#### **142 Fine collection notice for regular redirection of earnings**

A fine collection notice for regular redirection of earnings must include the following—

- (a) the full name and address of the enforcement debtor;
- (b) the name of the enforcement debtor's employer who must deduct amounts from the enforcement debtor's earnings;

- (c) the total amount the enforcement debtor's employer must deduct from the enforcement debtor's earnings;
- (d) the amount the enforcement debtor's employer must deduct each pay day from the enforcement debtor's earnings;
- (e) a requirement that the enforcement debtor's employer must give the deducted amount to SPER;
- (f) the protected earnings amount;
- (g) anything else prescribed under a regulation.

#### **143 Fine collection notice for redirection of a debt**

A fine collection notice for redirection of a debt belonging to an enforcement debtor from a third person must include the following—

- (a) the full name and address of the enforcement debtor;
- (b) the full name and address of the third person;
- (c) details of the debt that is to be redirected;
- (d) the debt is redirected in the hands of the third person to SPER to the extent stated in the notice;
- (e) that the third person must give the redirected amount to SPER;
- (f) the effect of sections 95(3) and 96;
- (g) anything else prescribed under a regulation.

#### **144 Fine collection notice for regular redirection from financial institution account**

A fine collection notice for regular redirection must, in addition to any other details required to be stated in the notice, include the following—

- (a) the full name and address of the enforcement debtor;
- (b) the name of the financial institution that must deduct amounts from a regular deposit;

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- (c) details of the enforcement debtor's financial institution account from which the deduction is to be made;
- (d) the total amount the financial institution must deduct from the enforcement debtor's account;
- (e) the amount the financial institution must deduct each time a regular deposit is made to the account;
- (f) that the financial institution must give the deducted amount to SPER;
- (g) anything else prescribed under a regulation.

#### **145 Notice of intention to suspend driver licence**

A notice of intention to suspend a driver licence must be in the approved form and state—

- (a) that if the person does not pay the amount stated in the notice within 14 days after the date of issue of the notice and the person has a driver licence—
  - (i) the driver licence will be suspended until the amount owing is paid or otherwise discharged; and
  - (ii) some or all of the enforcement procedures mentioned in the enforcement order may be taken against the person; and
- (b) it is an offence against the *Transport Operations (Road Use Management) Act 1995* to drive a vehicle while the person's driver licence is suspended under this Act and the penalty for the offence.

#### **146 Arrest and imprisonment warrant**

An arrest and imprisonment warrant must be in the approved form and state the following—

- (a) the full name and address of the enforcement debtor;
- (b) the amount owing;

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- (c) for a fine—the offence for which the amount became payable;
  - (d) for an amount owing because of an order of a court—the original order of the court to which the amount relates;
  - (e) the period for which the enforcement debtor is to be imprisoned;
  - (f) that if the enforcement debtor pays part of the amount owing after the person is imprisoned, the period for which the person may be imprisoned will be reduced.

#### **146A Notice of intention to issue immobilisation warrant**

A notice of intention to issue an immobilisation warrant notice must—

- (a) be in the approved form; and
- (b) state the amount owing by the enforcement debtor; and
- (c) state the vehicle or vehicles proposed to be immobilised under an immobilisation warrant; and
- (d) state that an immobilisation warrant may be issued after 14 days unless—
  - (i) the enforcement debtor pays the amount stated in the notice in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (e) state that an immobilisation warrant empowers an enforcement officer to immobilise the vehicle stated in the warrant, without further notice to the debtor and without the debtor's consent; and
- (f) state where, when and for how long the vehicle may be immobilised under the warrant; and

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- (g) state that the vehicle may be liable to be seized and sold under an enforcement warrant immediately after the immobilisation period ends unless—
  - (i) the enforcement debtor pays the amount stated in the notice in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (h) state that it is an offence—
  - (i) to conceal, sell, transfer or otherwise deal with the vehicle with intent to avoid the issue of an immobilisation warrant or to defeat the enforcement of an immobilisation warrant; or
  - (ii) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
  - (iii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or
  - (iv) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.

### **146B Form of immobilisation warrant**

- (1) An immobilisation warrant must—
  - (a) be in the approved form; and
  - (b) be directed to all enforcement officers; and
  - (c) state the full name and address of the enforcement debtor; and



- (d) state the amount owing by the enforcement debtor; and
- (e) include a debt schedule that—
  - (i) for a fine, states the offence for which the amount became payable; or
  - (ii) for an amount owing because of a court order, states the original order of the court to which the amount relates; and
- (f) state the date and time of issue of the warrant and the date, within 12 months of the warrant's issue, the warrant ends; and
- (g) state the vehicle or vehicles to be immobilised under the warrant; and
- (h) state that the vehicle or vehicles may be liable to be seized and sold under an enforcement warrant immediately after the immobilisation period ends unless—
  - (i) the enforcement debtor pays the amount stated in the warrant in full; or
  - (ii) on application mentioned in section 41(b) or (c) by the enforcement debtor, the registrar decides to allow payment of the amount owing by instalments or makes a fine option order; or
  - (iii) a good behaviour order is made against the enforcement debtor; and
- (i) state that it is an offence—
  - (i) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
  - (ii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or

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- (iii) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.
- (2) An immobilisation warrant may mention more than 1 vehicle.

### **146C Form of immobilisation notice**

An immobilisation notice must be in the approved form and state—

- (a) that the vehicle has been immobilised because the registered operator of the vehicle is a person against whom an immobilisation warrant has been issued; and
- (b) how long the immobilising device may remain attached to the vehicle; and
- (c) that it is an offence—
  - (i) to interfere with or remove an immobilised vehicle during the immobilisation period with intent to adversely affect any seizure or sale of the vehicle under this Act; or
  - (ii) to threaten, obstruct or assault an enforcement officer acting in the performance of duties under this Act; or
  - (iii) to tamper with or remove or attempt to remove an immobilising device or an immobilisation notice attached to a vehicle under this Act.

### **146D Form of immobilisation search warrant**

An immobilisation search warrant must be in the approved form and state—

- (a) that a stated enforcement officer, or all enforcement officers, may enter the stated premises and exercise the powers mentioned in section 108M; and
- (b) if the warrant is to be enforced at night—the hours when the stated premises may be entered; and

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- (c) when the warrant ends being a time no more than 7 days after it is issued.

## **Division 2                    Other enforcement related provisions**

### **147    Effect of notices, orders and warrants**

- (1) For this Act, a fine collection notice, an enforcement order or a warrant issued by the registrar is taken to be a notice, order or warrant of a Magistrates Court in the central division of the Brisbane Magistrates Court district.
- (2) If the registrar believes that the enforcement debtor or any of the enforcement debtor's property is in a Magistrates Court district other than the Brisbane Magistrates Court district (the *receiving district*), the registrar may send a warrant issued by the registrar to the registrar of the court in the receiving district (the *receiving registrar*).
- (3) The receiving registrar must—
- (a) record the warrant; and
  - (b) stamp the warrant with the court seal; and
  - (c) issue the warrant to an enforcement officer in the receiving district and record having issued it.
- (4) An enforcement officer in the receiving district—
- (a) is authorised and required to act as if the warrant had been directed to the enforcement officer; and
  - (b) must, within a reasonable time, report in writing to the receiving registrar about what the enforcement officer has done to enforce the warrant; and
  - (c) must, within a reasonable time, give the receiving registrar any money received in the enforcement of the warrant.

### **148 Electronic transmission of particular documents**

- (1) A notice, order or warrant, or any document under this Act containing information or a request for information, that is required or permitted by this Act to be given by someone to someone else may be transmitted electronically to the person or entity to whom it is to be given or directed.
- (2) For serving a notice or enforcing an enforcement warrant or immobilisation warrant that is transmitted electronically, the enforcement officer to whom it is transmitted must arrange for a copy of the notice or warrant to be converted into written form, and to be completed in the way required under a regulation.

### **149 Enforcement costs and their allocation**

- (1) A regulation may prescribe the enforcement costs payable for any step taken for enforcing payment of a fine, penalty or another amount under this Act.
- (2) If no enforcement costs are prescribed, no enforcement costs are payable.
- (3) The amount prescribed as enforcement costs may include costs payable to an entity other than SPER that takes the step.

### **150 Dishonoured cheques etc.**

- (1) This section applies if full or part payment of a fine or another amount payable under this Act is made—
  - (a) by cheque, and the cheque is dishonoured on presentation; or
  - (b) by credit card, and the credit provider declines to authorise the payment; or
  - (c) by direct debit from an account held with a financial institution, and the financial institution can not comply with the transfer request because there is not enough money in the account; or

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- (d) in another electronic way acceptable to SPER and the way of making the payment is not successful.
  - (2) Payment is taken not to have been made—
    - (a) if the payment is made by cheque, until—
      - (i) the cheque is honoured on presentation; or
      - (ii) payment in cash or in another way acceptable to the administering authority or to SPER is made in place of the cheque; or
    - (b) in any other case—until payment is made in cash or in another way acceptable to SPER.

### **150A Registrar may write off unpaid fine or other amount**

- (1) The registrar may write off all or part of a fine or another amount payable by a person under this Act, whether or not any part of the fine or other amount is payable to someone other than the State—
  - (a) if the person dies; or
  - (b) if the person is a corporation that has been deregistered; or
  - (c) if there is insufficient information to establish the identity of the person liable to pay the fine or other amount; or
  - (d) in other circumstances permitted under a guideline issued by the Minister under section 150B.
- (2) However, a fine or other amount that has been written off may be reinstated if—
  - (a) the fine or other amount was incorrectly identified for writing off; or
  - (b) the reinstatement is permitted under a guideline issued by the Minister under section 150B.
- (3) The fine or other amount—

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- (a) stops being payable from the time it is written off; and
- (b) starts being payable again from the time it is reinstated.

### **150B Guidelines**

- (1) The Minister may issue guidelines about the writing off or reinstatement of fines and other amounts payable by persons under this Act.
- (2) A guideline issued under subsection (1) must not be made available to members of the public.
- (3) The registrar may issue guidelines for the purposes of section 108B, 108C, 108D(2), 108H(4)(a) or (b) or 108P(1)(d) or (2).
- (4) Without limiting subsection (3), a guideline for the purposes of section 108D(2) or 108P(2) may deal with—
  - (a) whether there is severe or unusual hardship caused by depriving an enforcement debtor of the enforcement debtor's means of earning a living; and
  - (b) whether there is severe or unusual hardship caused other than by depriving an enforcement debtor of the enforcement debtor's means of earning a living.
- (5) The registrar—
  - (a) may have regard to a guideline issued by the registrar for the purposes of section 108B, 108D(2) or 108P(2); and
  - (b) must have regard to a guideline issued by the registrar for the purposes of section 108C or 108P(1)(d).
- (6) An enforcement officer must have regard to a guideline issued by the registrar for the purposes of section 108H(4)(a) or (b).
- (7) A guideline under subsection (3) must be publicly available including available on SPER's website.

*Editor's note—*

The address of SPER's website is <[www.justice.qld.gov.au/justice-services/sper](http://www.justice.qld.gov.au/justice-services/sper)>.

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**151 Information from commissioner of police service**

- (1) The commissioner of the police service may, on the registrar's written request, give to the registrar information in the possession of the police service about a stated person for the purposes of the registrar taking action against the person to enforce payment of an amount under this Act.
- (2) The information that may be given under subsection (1) is—
  - (a) the person's criminal history; and
  - (b) any address known to the commissioner; and
  - (c) any assets of the person known to the commissioner.
- (3) Subsection (4) applies if the registrar advises the commissioner of the police service under section 151A about a particular immobilisation warrant.
- (4) The commissioner of the police service may, on the registrar's written request, give to the registrar information in the possession of the police service about any person known to the commissioner of police to reside at premises where the registrar proposes to have the warrant enforced.
- (5) The information that may be given under subsection (4) is—
  - (a) the person's criminal history; and
  - (b) whether any warning, including, for example, a warning about the health or behaviour of the person is recorded in a document in the possession of the police service; and
  - (c) the details of any warning mentioned in paragraph (b).
- (6) Information given to the registrar under this section must only be used for the purposes of this Act.
- (7) If information given to the registrar under subsection (4) is in writing, the registrar must destroy it as soon as practicable after the registrar is satisfied it is no longer needed for the purpose for which it was given.
- (8) This section applies subject to the *Police Powers and Responsibilities Act 2000*, chapter 21, part 2.

[s 151A]

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**151A Registrar may advise commissioner of police service of particular information**

- (1) The registrar may advise the commissioner of the police service of the following information—
  - (a) that the registrar has issued a particular immobilisation warrant;
  - (b) when and where the registrar proposes to have the warrant enforced.
- (2) The information may only be used by the Queensland Police Service in relation to the enforcement of the warrant.

**152 Information from persons other than police service**

- (1) The registrar may, by written notice given to a person, require the person to—
  - (a) give to the registrar, either orally or in writing, information in the person's knowledge about a stated matter within a stated reasonable time and in a stated reasonable way; or
  - (b) give to the registrar a document about a stated matter in the person's possession or control within a stated reasonable time and in a stated reasonable way.
- (2) The power conferred under subsection (1) must only be exercised for the administration or enforcement of this Act.
- (3) A person must not fail, without reasonable excuse, to comply with a requirement made under subsection (1) within the time, and in the way, stated in the notice.

Maximum penalty—100 penalty units.

- (4) If the person reasonably suspects giving the registrar information or a document is likely to endanger the safety of a person, it is a reasonable excuse for the person not to give the registrar that information or document.
- (5) This section does not apply to the Queensland Police Service.



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**152A Attendance by persons other than police service**

- (1) The registrar may, by written notice given to a person, require the person to attend before the registrar to do either or both of the following—
  - (a) give the registrar, either orally or in writing, information in the person's knowledge about a stated matter;
  - (b) give the registrar a document about a stated matter in the person's possession or control.
- (2) The notice must state a reasonable time and place for the person's attendance.
- (3) The registrar may require—
  - (a) information to be given on oath; or
  - (b) information or a document given to be verified by statutory declaration.
- (4) The powers conferred under subsections (1) and (3) must only be exercised for the administration or enforcement of this Act.
- (5) When making a requirement under this section, the registrar must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (6) The person must not fail, without reasonable excuse, to—
  - (a) attend as required by the notice; or
  - (b) give information the person is required to give by the registrar in the way required; or
  - (c) give a document the person is required to give by the notice; or
  - (d) comply with a requirement under subsection (3).

Maximum penalty—100 penalty units.

- (7) If the person reasonably suspects giving the registrar information or a document is likely to endanger the safety of a person, it is a reasonable excuse for the person not to give the registrar that information or document.

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- (8) A person, other than an enforcement debtor or the enforcement debtor's representative, who is required under a notice under this section to attend a place is entitled to be paid the expenses prescribed under a regulation.
- (9) For subsection (3)(a), the registrar may administer an oath.
- (10) This section does not apply to the Queensland Police Service.

### **152B Power to record giving of information**

- (1) This section applies if a person is giving information to the registrar under a requirement under section 152A.
- (2) With the person's knowledge, a recording may be made, in the way the registrar considers appropriate, of questions asked by the registrar and information given by the person.
- (3) If asked to do so by the person, the registrar must give the person a copy of the recording.

### **152C Registrar may require translation or conversion of document or information**

- (1) This section applies if—
  - (a) a person gives information or a document to the registrar; and
  - (b) the registrar reasonably believes the information or document is relevant to the administration or enforcement of this Act.
- (2) The registrar may, by written notice given to the person, require the person to translate or convert into a written document in the English language and Australian currency the information or document mentioned in subsection (1).
- (3) The notice must state the reasonable time for compliance with the requirement.
- (4) The person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty—100 penalty units.

- (5) If the person does not comply with the requirement, the registrar may have the document or information translated or converted.
- (6) The costs and expenses incurred under subsection (5) are a debt payable to the State by the person and may be recovered by the registrar by action in a court of competent jurisdiction.

**152D Self-incrimination not a reasonable excuse for failure to comply with requirement under s 152 or 152A**

- (1) This section applies if, under section 152 or 152A, a person is required by written notice given to the person to give information or a document to the registrar.
- (2) It is not a reasonable excuse for the person to fail to comply with the requirement because complying with the requirement might tend to incriminate the person.
- (3) However, evidence of, or evidence directly or indirectly derived from, information or a document given in compliance with the requirement by the person that might tend to incriminate the person is not admissible in evidence against the person in a criminal proceeding, other than a proceeding in which the falsity or misleading nature of the information or document is relevant.

**152E False or misleading documents**

- (1) A person must not give the registrar a document containing information that the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
  - (a) tells the registrar of the extent to which the document is false or misleading; and

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- (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the registrar.

### **152F False or misleading information**

A person must not state anything to the registrar that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

### **152G Disclosure of confidential information—information acquired by official in official's capacity**

- (1) An official must not disclose confidential information acquired by the official in the official's capacity to anyone else other than—
  - (a) for information mentioned in section 151—under that section; or
  - (b) for other information—under this section or section 152H.

Maximum penalty—100 penalty units.

- (2) The registrar may disclose personal confidential information—
  - (a) to the person to whom the information relates or, if either of the following applies, to someone else—
    - (i) with the consent, express or implied, of the person to whom the information relates;
    - (ii) the registrar reasonably believes is acting for the person to whom the information relates; or
  - (b) if the disclosure is expressly permitted or required under another Act; or
  - (c) in connection with the administration or enforcement of this Act or a revenue law; or
  - (d) in relation to a legal proceeding under this Act; or

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- (e) to the Minister, or an officer of the department, for—
- (i) developing or monitoring policies for, or the operation of, this Act; or
  - (ii) administering the *Financial Accountability Act 2009*, section 21.
- (3) Also, if the registrar becomes aware, from information obtained or held by the registrar in the course of administering this Act, of a particular offence or suspected offence (whether against this Act or another law), the registrar may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).
- (4) Also, the registrar may disclose confidential information other than personal confidential information to any person, or for any purpose, the registrar is satisfied is appropriate in the circumstances.
- (5) This section does not create a right in any person to be given confidential information.
- (6) In this section—
- confidential information*** means information, including a document, that is disclosed to, obtained by, or otherwise held by, an official under or in relation to this Act.
- official*** means a person who is, or has been, engaged in administering or enforcing this Act.
- personal confidential information***, for a person, means confidential information that—
- (a) identifies, or is likely to identify, the person; or
  - (b) discloses matters about the person's affairs.
- revenue law*** means—
- (a) a law of the Commonwealth or a State about the assessment, imposition or collection of a tax, fee, duty, royalty or other impost; or

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- (b) another law administered by the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*.

*Note—*

See the *Taxation Administration Act 2001*, sections 7 and 8 for the appointment and functions of the Commissioner of State Revenue.

## **152H Other obligations about disclosure of confidential information**

- (1) Subsection (2) applies if—
- (a) a person—
    - (i) knowingly acquires confidential information without lawful authority; or
    - (ii) receives confidential information that the person knows, or ought reasonably to know, is confidential information; and
  - (b) the person is not an official who acquires the information in the official's capacity.

*Example for subsection (1)(a)(i)—*

A person employed by a cleaning contractor engaged by the State to clean reads a document in the registrar's office containing confidential information.

*Example for subsection (1)(a)(ii)—*

A person, other than the addressee of an email, receives the email that states the information in it is confidential and is intended for the addressee's purposes only.

- (2) The person must not disclose the information to anyone else unless the disclosure is permitted—
- (a) for information mentioned in section 151—under that section; or
  - (b) for other information—under this section.

Maximum penalty—100 penalty units.

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- (3) If, under section 152G, the registrar discloses confidential information to a person, the person may disclose the information—
- (a) to the extent necessary to enable the person to exercise a power or perform a function conferred on the person under a law for the administration or enforcement of the law; or
  - (b) for the purpose for which it was disclosed under the section; or
  - (c) to anyone else for any purpose if the information relates to the person.
- (4) In this section—
- confidential information* see section 152G(6).
- official* see section 152G(6).

### **152I Refusal to disclose particular information**

- (1) A person engaged in the administration or enforcement of this Act can not be compelled to disclose to a court or QCAT in a proceeding, or to a party to the proceeding—
- (a) confidential information; or
  - (b) whether or not the person has received particular confidential information; or
  - (c) the identity of the source of particular confidential information.
- (2) Subsection (1) does not apply to a proceeding for the administration or enforcement of this Act.

### **153 Register**

- (1) The registrar must keep a State penalties enforcement register.
- (2) The register must include particulars of the following orders, notices and warrants, any payments made and any

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enforcement action taken after the issue by the registrar of any of the following—

- (a) an instalment payment notice;
  - (b) an enforcement order;
  - (c) a fine option order;
  - (d) an enforcement warrant to seize and sell personal property;
  - (e) an enforcement warrant imposing a charge on property;
  - (f) a fine collection notice to deduct and redirect earnings of an enforcement debtor;
  - (g) a fine collection notice for regular redirection from a financial institution account;
  - (h) a fine collection notice to redirect all or part of a debt owed to an enforcement debtor;
  - (i) a notice suspending a driver licence;
  - (j) a notice of intention to issue an immobilisation warrant;
  - (k) an immobilisation warrant;
  - (l) an arrest and imprisonment warrant.
- (3) The register must also include particulars of enforcement action taken under part 8.

## **154 No fees payable for registration under other Acts**

No fee is payable by SPER for—

- (a) lodging in a registry any order or instrument under this Act or any instrument lodged to transfer property to the State under this Act; or
- (b) doing anything else for which registry fees are fixed.

*Example of paragraph (b)—*

If fees are fixed for register searches or copies of anything in a register, SPER is not required to pay the fees.



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**155 Non-reviewable decision**

- (1) This section applies to any of the following decisions (the *decision*)—
- (a) a decision of the chief executive (corrective services) about—
    - (i) the suitability of a person to perform community service work under a fine option order under section 48; or
    - (ii) the failure of a person to comply with a fine option order under this Act;
  - (b) a decision of the registrar to refuse an application for instalment payments under section 42;
  - (c) a decision of the registrar to issue—
    - (i) an enforcement order under section 38; or
    - (ii) an enforcement warrant under section 63; or
    - (iii) a fine collection notice under section 75; or
    - (iv) a notice of intention to suspend a driver licence under section 105; or
    - (v) an arrest and imprisonment warrant under section 119;
  - (d) a decision of the registrar to register an interest in land or property under section 110;
  - (e) a decision of the registrar to revoke a fine option order under section 129;
  - (f) a decision of a court registrar to refuse to cancel a revocation of a fine option order under section 130;
  - (g) a decision of the registrar to issue—
    - (i) a notice of intention to issue an immobilisation warrant; or
    - (ii) an immobilisation warrant.
- (2) The *Judicial Review Act 1991*, parts 3 and 4 does not apply to the following matters—

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- (a) conduct engaged in for the purpose of making the decision;
  - (b) other conduct that relates to the making of the decision;
  - (c) the making of the decision;
  - (d) the decision.
- (3) Without limiting subsection (2), the Supreme Court does not have jurisdiction to hear and decide applications made to it under the *Judicial Review Act 1991*, part 3 or 4 about matters mentioned in that subsection.

## **156 Responsibility for acts or omissions of representatives**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves—
- (a) if the person was in a position to influence the conduct of the representative in relation to the act or omission—the person took reasonable steps to prevent the act or omission; or
  - (b) the person was not in a position to influence the conduct of the representative in relation to the act or omission.
- (4) In this section—

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*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

## **157 Evidentiary provisions**

- (1) This section applies to a proceeding under this or another Act.
- (2) A certificate purporting to be signed by or for an administering authority and stating any of the following matters is evidence of the matter—
  - (a) a stated infringement notice was served in a stated way on a stated person for a stated infringement notice offence;
  - (b) an alleged offender did not pay a fine as required under an infringement notice;
  - (c) an alleged offender elected to have a matter of an offence decided in a Magistrates Court;
  - (d) an alleged offender applied to the administering authority to pay the fine under an infringement notice by instalments;
  - (e) an infringement notice has not been withdrawn or was withdrawn on a stated date;
  - (f) an offence stated in an infringement notice involved a stated vehicle or animal;
  - (g) a stated person owned a stated vehicle or animal at a stated time;
  - (h) a stated person owned a stated animal at a stated time;
  - (i) a stated address is the latest address of the owner of a stated vehicle in the record of registration of vehicles under a registration Act;
  - (j) a stated person has or has not given the administering authority an illegal user declaration, known or unknown

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- user declaration or sold vehicle declaration for an offence stated in an infringement notice;
- (k) a fine has not been paid by, and a penalty has not been imposed on, a stated or any person for an offence stated in an infringement notice.
- (3) A certificate purporting to be signed by the registrar and stating any of the following matters is evidence of the matter—
- (a) stated information or particulars were registered under the Act on a stated day;
  - (b) a stated amount was paid to SPER on a stated day to satisfy all or a stated part of a stated amount owing under a stated notice, order or warrant;
  - (c) a stated person applied to SPER to pay the fine under an infringement notice by instalments;
  - (d) a stated person applied to SPER for conversion of an amount payable because of a fine to hours of unpaid community service under a fine option order;
  - (e) a stated fine option order relating to a stated person was revoked on a stated day;
  - (f) a warrant to arrest and imprison a stated person was issued under this Act on a stated day;
  - (g) a stated document was issued on a stated day;
  - (h) a notice of intention to suspend the driver licence of a stated person was served on the person in a stated way on a stated day;
  - (i) a notice of intention to issue an immobilisation warrant was served on a stated person on a stated day;
  - (j) an immobilisation warrant was served on a stated person on a stated day.

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**158 Service of document**

- (1) A document may be served under this Act as provided for under the *Acts Interpretation Act 1954*, part 10.
- (2) For the *Acts Interpretation Act 1954*, part 10, an instalment payment notice, a fine collection notice or a fine option order may be posted to the person at the address stated in particulars registered under this Act.
- (3) For the *Acts Interpretation Act 1954*, part 10, a notice of intention to issue an immobilisation warrant, or an immobilisation warrant, for a vehicle may be sent by post or facsimile to the enforcement debtor at—
  - (a) the address registered under the *Transport Operations (Road Use Management) Act 1995* of the vehicle's registered operator (the **registered address**); or
  - (b) the address last known to the registrar to be—
    - (i) if the enforcement debtor is an individual—the enforcement debtor's residential or business address; or
    - (ii) if the enforcement debtor is a corporation—the head office, a registered office or a principal office of the corporation.

**159 Proceedings for offences**

A proceeding for an offence against this Act may be taken by way of summary proceedings under the *Justices Act 1886*—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

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**159A Registrar may communicate with enforcement debtors by SMS**

The registrar may communicate with an enforcement debtor by SMS, without the enforcement debtor's consent, about—

- (a) enforcement action under the Act that is being, or may be, taken against the enforcement debtor; or
- (b) matters relating to the enforcement debtor's payment of the amount owing.

**Division 3                      General**

**160 Delegation by administering authority**

The chief executive officer of an administering authority may delegate the administering authority's powers under this Act to an appropriately qualified person.

**161 Delegation by registrar**

- (1) The registrar may delegate the registrar's powers under this Act to an appropriately qualified person.
- (2) Without limiting subsection (1), the registrar may delegate the registrar's powers to engage a commercial agent as an enforcement officer to a bailiff.

**162 Approval of forms by administering authority**

An administering authority may approve forms for use as infringement notices under this Act.

**163 Approval of other forms**

- (1) The chief executive may approve forms for use under this Act.

- (2) The forms the chief executive may approve under subsection (1) do not include forms for use as infringement notices by an administering authority other than the department.

## **164 Review of Act**

The Minister must ensure the operation of this Act is reviewed within 18 months after the end of the amnesty period mentioned in section 167.

## **165 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe an offence to be an infringement notice offence.
- (3) A regulation may prescribe an infringement notice fine for an infringement notice offence.
- (4) A regulation may prescribe an infringement notice fine for a corporation up to 5 times the amount payable by an individual for the offence under an infringement notice.
- (5) Also, a regulation may make provision for enforcing enforcement orders, enforcement warrants and fine collection notices including, but not limited to—
  - (a) the conduct of hearings or interviews for enabling the registrar to obtain information to facilitate the enforcement of fines, penalties and other amounts under enforcement orders, enforcement warrants, immobilisation warrants and fine collection notices; and
  - (b) requiring enforcement debtors to prepare and give to the registrar statements of the enforcement debtor's financial position; and
  - (f) the order of priority for enforcing enforcement warrants.
- (6) A regulation may be made about fees.

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- (7) A regulation may be made about an offender levy including, for example, the prescribed particulars for an offender levy.

## **Part 10**                      **Transitional, validating and declaratory provisions**

### **Division 1**                      **Transitional provisions for Act No. 70 of 1999**

#### **167**      **Amnesty period**

- (1) During the amnesty period, a warrant of commitment issued under—
- (a) the *Justices Act 1886* for an infringement notice offence under the *Justices Act 1886*, part 4A; or
  - (b) the *Penalties and Sentences Act 1992* for non-payment of a fine imposed under that Act;
- but not enforced before the amnesty period started (*outstanding warrant*) must not be enforced.
- (2) Also, during the amnesty period a person may satisfy an outstanding warrant by paying the amount stated in the warrant free of any warrant issue fee mentioned in the warrant.
- (3) Subsection (1) does not apply to the enforcement of a warrant of commitment for a person who is a prisoner within the meaning of the *Corrective Services Act 1988*.
- (4) This section has effect despite anything to the contrary in the *Justices Act 1886* or any other Act.
- (5) In this section—



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*amnesty period* means a 2-month period commencing on the commencement of this section or, if a longer period is prescribed under a regulation, the longer period.

## **168 Saving of infringement notice**

An infringement notice issued under the *Justices Act 1886*, part 4A as in force before the commencement of section 167 is taken to be an infringement notice issued under this Act, and the penalty stated in the infringement notice is taken to be a fine under the notice.

## **169 Saving of enforcement orders**

- (1) This section applies to enforcement orders issued under the *Justices Act 1886*, section 98P for an existing penalty and in force immediately before the commencement of this section.
- (2) Each enforcement order continues to have effect until the registrar issues an enforcement order under subsection (3) or an enforcement warrant or fine collection notice under subsection (5).
- (3) As soon as practicable after the commencement of this section, the registrar must issue an enforcement order under this Act for each infringement notice to which an enforcement order mentioned in subsection (1) relates.
- (4) Subsection (3) does not apply to an enforcement order that is amended under the *Justices Act 1886*, section 98R.
- (5) If a person contravenes an enforcement order mentioned in subsection (4), the registrar may issue an enforcement warrant or fine collection notice for the amount unpaid under the order.

## **170 Issue of infringement notices by administering authority**

- (1) Despite the repeal of the *Justices Act 1886*, part 4A, an administering authority may continue to issue an infringement

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notice that complies with that Act for a period ending 6 months after the commencement of this section.

- (2) However, the administering authority must at the same time issue a notice in the approved form to the alleged offender stating—
  - (a) the infringement notice will be enforced as if it is was issued under this Act; and
  - (b) the rights and obligations of the alleged offender under section 22.
- (3) The infringement notice may be enforced as if it were an infringement notice issued under this Act.

### **171 Existing warrant of commitment**

- (1) If a warrant of commitment issued against a person under the *Justices Act 1886* or the *Penalties and Sentences Act 1992* for non-payment of an amount that may be registered under this Act was not enforced before the commencement of this section, the registrar may, despite the relevant Act, recall the warrant and cancel it.
- (2) If, at the end of the amnesty period the amount has not been paid, the SPER registrar—
  - (a) may issue an enforcement order under this Act for the amount stated in the cancelled warrant; but
  - (b) is not required to serve a copy of the enforcement order on the person or to give the person any further time to pay the amount before taking enforcement action under part 5 or 6.
- (3) The registrar may take enforcement action under this Act for the amount at any time after the order is made.

### **172 Existing fine option order**

- (1) A fine option order made for a person on an application under the *Justices Act 1886*, section 98U and in force immediately

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before the commencement of this section is taken to be a fine option order made under this Act.

- (2) If the fine option order is revoked, the registrar—
  - (a) may issue an enforcement warrant or a fine collection notice under this Act for the amount concerned; but
  - (b) is not required to serve a copy of the warrant or notice on the person.
- (3) The registrar may take enforcement action under this Act at any time after the fine option order is revoked.

## **Division 2                      Validating and declaratory provisions**

### **173      Infringement notice for Motor Accident Insurance Act 1994**

- (1) This section applies to an infringement notice for an offence against the *Motor Accident Insurance Act 1994*.
- (2) An infringement notice issued or served by a police officer before 20 December 2002 is taken to have been issued or served by an authorised person.
- (3) In this section—

*infringement notice* means an infringement notice under this Act or the *Justices Act 1886*, repealed part 4A.

### **174      Infringement notice for a corporation**

To remove any doubt, it is declared that section 165(4), as in force immediately before the commencement of the *Justice and Other Legislation Amendment Act 2005*, section 149 was not and has never been, a contrary intention for the purposes of the application of the *Statutory Instruments Act 1992*, sections 24 and 25.

[s 174A]

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### **174A Particular orders made under Industrial Relations Act 1999**

- (1) Subsection (2) applies if, before the commencement of this section—
  - (a) a magistrate gave particulars of a relevant order to the court registrar for the purpose of registering the prescribed particulars, in relation to the unpaid amount payable under the order, under section 34; or
  - (b) a court registrar purported, under section 34, to give to SPER, for registration, the prescribed particulars in relation to the unpaid amount payable under the order.
- (2) The giving of the particulars by the magistrate and the giving of the prescribed particulars by the court registrar is, and always has been, lawful.
- (3) Subsection (4) applies if, before the commencement of this section—
  - (a) the registrar purportedly registered, under section 34, prescribed particulars in relation to the unpaid amount payable under a relevant order; or
  - (b) a person took action purportedly under the Act to enforce a relevant order.
- (4) The registration of the prescribed particulars, and the action taken, is as valid, and always has been as valid, as if, at the time the relevant order was made, it was an order to which section 34 applied.
- (5) In this section—

*relevant order* means an order mentioned in the *Industrial Relations Act 1999*, section 400(1) or 408H(1).

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**Division 3**                      **Transitional provisions for State Penalties Enforcement and Other Legislation Amendment Act 2007**

**175**      **Definition for div 3**

In this division—

*amendment Act* means the *State Penalties Enforcement and Other Legislation Amendment Act 2007*.

**176**      **Transitional provision about management of office**

- (1) This section applies if, immediately before the commencement of the amendment provision, an enforcement order, warrant or fine collection notice properly made or issued by a member of the staff of the registry was still in force.
- (2) The order, warrant or notice continues in force according to its terms as if the amendment provision had not commenced.
- (3) A member of the staff of the registry continues to have the same immunities and protections in relation to making or issuing the relevant document as the staff member would have had if the amendment provision had not commenced.
- (4) In this section—  
*amendment provision* means section 4 of the amendment Act.

**177**      **Transitional provision for extension of time to pay an amount stated in an enforcement order**

- (1) This section applies if, immediately before the commencement of this section, an application for an extension of time to pay an amount stated in an enforcement order has been made under repealed section 41(b) or 42(1)(a) but not decided.
- (2) On the commencement, the application is taken to be cancelled.

[s 178]

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(3) In this section—

*repealed section 41(a) or 42(1)(a)* means section 41(a) or 42(1)(a) as in force before the commencement of section 15 of the amendment Act.

### **178 Transitional provision for cancellation of enforcement order**

(1) This section applies if, immediately before the commencement of this section, the registrar had cancelled an enforcement order under previous section 57 but had not referred the matter of the offence to a Magistrates Court.

(2) On the commencement—

(a) the registrar must not refer the matter of the offence to a Magistrates Court; and

(b) new section 57 applies to the cancellation of the enforcement order as if the cancellation had happened after the commencement.

(3) In this section—

*new section 57* means section 57 as amended by the amendment Act.

*previous section 57* means section 57 as in force before the commencement of section 20 of the amendment Act.

### **179 Transitional provision for good behaviour order**

(1) After the commencement of this section, a good behaviour order may be made under the new section 118 in relation to an enforcement warrant or a fine collection notice issued or that could have been issued before the commencement as if the enforcement warrant or fine collection notice was issued after the commencement.

(2) In this section—

*new section 118* means section 118 as in force after the commencement of section 26 of the amendment Act.

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**Division 4**                      **Transitional provision for Trade  
Measurement Legislation Repeal  
Act 2009**

**180**      **Amendment of regulation by Trade Measurement  
Legislation Repeal Act 2009 does not affect powers of  
Governor in Council**

The amendment of the *State Penalties Enforcement Regulation 2000* by the *Trade Measurement Legislation Repeal Act 2009* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

**Division 5**                      **Transitional provision for Transport  
and Other Legislation Amendment  
Act 2009**

**181**      **Amendment of regulation by Transport and Other  
Legislation Amendment Act 2009 does not affect powers  
of Governor in Council**

The amendment of the *State Penalties Enforcement Regulation 2000* by the *Transport and Other Legislation Amendment Act 2009* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

**Division 6**                      **Transitional provision for Civil and  
Criminal Jurisdiction Reform and  
Modernisation Amendment Act  
2010**

**182**      **Effect of provision disqualifying person from holding or  
obtaining driver licence**

Section 106(4) as amended by the *Civil and Criminal*

[s 183]

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*Jurisdiction Reform and Modernisation Amendment Act 2010* has effect in relation to a person whose licence is suspended under section 105 regardless of whether the suspension happened before or after the commencement of this section.

## **Division 7                      Transitional provision for Local Government Electoral Act 2011**

### **183      Effect of regulation amendment**

The amendment of the *State Penalties Enforcement Regulation 2000* by the *Local Government Electoral Act 2011* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.



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## Schedule 2 Dictionary

### section 3

***account***, for a financial institution, includes a withdrawable share account.

***address***, of a person, means the full address of the place where the person lives or works.

***administering authority***, for an infringement notice or infringement notice offence, means the entity prescribed under a regulation as the administering authority for the notice or offence.

***administration charge***, for a regular redirection from a financial institution account, means an amount prescribed by regulation or, if no amount is prescribed, \$3.

***alleged offender***, for an infringement notice, means the person on whom the notice is served.

***appropriately qualified***, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

***appropriately qualified public service officer*** means a public service officer who has the training and experience to perform an enforcement function under this Act.

***approved form*** means a form approved under section 162 or 163.

***arrest and imprisonment warrant*** see section 119.

***authorised corrective services officer*** means an authorised corrective services officer under the *Penalties and Sentences Act 1992*.

***authorised person*** means—

- (a) for an infringement notice—a person who, under a regulation, may serve the infringement notice; or

- (b) for a withdrawal from acting under this Act—a person who, under a regulation, may effect the withdrawal.

***civil enforcement fee*** means the fee prescribed under a regulation for part 5.

***commercial agent*** means a commercial agent or commercial subagent under the *Property Agents and Motor Dealers Act 2000*.

***community service*** has the meaning given by the *Corrective Services Act 2006*, schedule 4.

***community service order*** has the meaning given by the *Penalties and Sentences Act 1992*, section 4.

***compliance period***, for a fine option order, see section 122.

***conviction***, for part 8, see section 131.

***corrective services office*** means an office of the department within which the *Corrective Services Act 2006* is administered.

***court registrar*** means—

- (a) for the Supreme Court or District Court—the registrar of the relevant court; or
- (b) for a Magistrates Court—the clerk of the relevant court.

***criminal history*** of a person means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

***customer reference number*** means a unique number used by the department within which the *Transport Operations (Road Use Management) Act 1995* is administered to identify a person on whom an infringement notice for an infringement notice offence involving a vehicle has been served.

***cut-out rate***, for a fine or unpaid amount, means—

- (a) for a court order under which an offender is required to serve a term of imprisonment for failing to pay a penalty or a forfeited recognisance under the *Penalties and Sentences Act 1992*—the rate worked out by dividing the penalty or the amount of the recognisance by the

- number of days of imprisonment ordered, expressed in dollars for each day; or
- (b) for a court order under which an offender is not required to serve a term of imprisonment for failing to pay a penalty under the *Penalties and Sentences Act 1992*—the amount prescribed under a regulation for this paragraph or, if no amount is prescribed, \$75; or
  - (c) for a court order under which a surety is required to serve a term of imprisonment for failing to pay an amount under the *Bail Act 1980* or the *Penalties and Sentences Act 1992*—the rate worked out by dividing the amount by the number of days of imprisonment ordered, expressed in dollars for each day; or
  - (d) for a court order under which a surety is not required to serve a term of imprisonment for failing to pay an amount under the *Bail Act 1980* or the *Penalties and Sentences Act 1992*—the amount prescribed under a regulation for this paragraph or, if no amount is prescribed, \$75; or
  - (e) for a fine option order—the amount for each hour prescribed under a regulation for this part or, if no amount is prescribed, \$15 for each hour; or
  - (f) for an infringement notice offence—the amount prescribed under a regulation for this paragraph or, if no amount is prescribed, \$60.

***deducted amount*** see section 87.

***default certificate*** see section 33.

***driver licence*** has the meaning given by the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***earnings***, of an enforcement debtor, means wages, salary, fees, bonuses, commission, overtime pay or other compensation for services or profit arising from office or employment, a pension, benefit or similar payment, an annuity or an amount payable instead of leave or retirement benefit owing or accruing to the enforcement debtor.

**employer**, of an enforcement debtor, means a person (including the State) who, as principal, rather than as a servant or agent, pays, or is likely to pay, earnings to the enforcement debtor.

**enforcement debtor** see section 38.

**enforcement officer** means—

- (a) an appropriately qualified public service officer; or
- (b) the sheriff, deputy sheriff and the bailiff of a court; or
- (c) a commercial agent engaged under section 10(3)(a).

**enforcement order** see section 38.

**enforcement warrant** see section 63.

**executive officer**, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the management of the corporation.

**fine**—

- (a) generally, includes—
  - (i) an amount stated in an infringement notice as the fine for a stated infringement notice offence and, for a particular infringement notice, the fine stated in the infringement notice; and
  - (ii) for an offence for which a fine is imposed by a court—any amount payable under an ancillary order of the court; and
- (b) for part 8—see section 131.

*Examples of ancillary orders*—

- 1 professional fees, witnesses' expenses and interpreters' allowances
- 2 royalties or another similar amount, including conservation value payable under the *Nature Conservation Act 1992*

**fine collection notice** see section 75.

***fine option order*** means an order converting the unpaid amount of a fine under an enforcement order to hours of unpaid community service.

***fine option order breach notice*** see section 139.

***good behaviour order*** see section 118(3).

***government body*** means—

- (a) the State, another State, the Commonwealth or a local government; or
- (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office or other entity established for a State government purpose; or
- (c) a part of an entity mentioned in paragraph (b).

***illegal user declaration***, for an offence involving a vehicle, means a statutory declaration stating facts establishing the vehicle was stolen or illegally taken at the relevant time.

***immobilisation notice*** see section 108N.

***immobilisation period*** see section 108O.

***immobilisation search warrant*** see section 108L.

***immobilisation warrant*** see section 108D.

***immobilising device***, for a vehicle, means—

- (a) wheel clamps; or
- (b) another device that effectively detains the vehicle.

***infringement notice*** means a notice under section 15.

***infringement notice fine***, for an infringement notice offence, means the amount prescribed under a regulation to be the fine payable for the offence under an infringement notice.

***infringement notice offence*** means an offence, other than an indictable offence or an offence against the person, prescribed under a regulation to be an offence to which this Act applies.

***instalment***, of a fine under an infringement notice, means the amount payable as an instalment of the fine.

***instalment payment notice*** see section 136.

***interest in a managed investment scheme*** has the meaning given by the Corporations Act, section 9.

***interfere with*** includes the following—

- (a) remove;
- (b) damage;
- (c) destroy;
- (d) deface.

***known user declaration***, for an offence involving a vehicle, means a statutory declaration stating—

- (a) if the owner is—
  - (i) an individual—the owner was not in charge of the vehicle at the relevant time; or
  - (ii) a corporation—the vehicle was not being used for the corporation at the relevant time; and
- (b) the name and address of the person who was in charge of the vehicle at the relevant time.

***late payment penalty***—

- (a) for a deducted amount—see section 87; or
- (b) for an undeducted amount—see section 88.

***minimum instalment*** means the amount prescribed under a regulation as the minimum amount a person who may pay an amount by instalments must pay.

***motor vehicle*** means a vehicle propelled by a motor that forms part of the vehicle, and includes a trailer attached to the vehicle.

***offence***, for a particular infringement notice, means the offence stated in the notice.

***offence involving a vehicle*** means an offence in which an offender and a vehicle are involved, regardless of the extent to which the vehicle is actually involved in the offence.

***offender***, other than for part 3, includes alleged offender.

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**offender levy** see the *Penalties and Sentences Act 1992*, section 179C.

**officer**, of a corporation, includes a former officer of the corporation.

**owner**, of a vehicle, includes the person in whose name the vehicle is registered under a registration Act.

**partner** includes a former partner.

**premises** includes any structure, building, aircraft, vehicle, vessel or place, whether built on or not.

**prescribed particulars**, for part 4, means particulars prescribed under a regulation.

**protected earnings amount**, for a period for which earnings are paid, means the amount worked out by applying the protected earnings rate to the period for which the earnings are paid.

**protected earnings rate** has the meaning given by the *Child Support (Registration and Collection) Act 1988* (Cwlth), section 4.

**public service officer** see the *Public Service Act 2008*, schedule 4.

**quad bike** means a 4-wheeled motor vehicle that is ridden in the same way as a 2-wheeled motor vehicle.

**Queensland fine**, for part 8, see section 131.

**reciprocating court**, for part 8, see section 131.

**registered operator**, of a vehicle—

- (a) means the registered operator of the vehicle under the *Transport Operations (Road Use Management) Act 1995* (**transport registered operator**); and
- (b) if there is not, but has been, a transport registered operator of the vehicle—includes the last transport registered operator of the vehicle.

**registrar** means the person employed under section 10 to be registrar.

**registration Act** means—

- (a) the *Transport Operations (Road Use Management) Act 1995* or another Act prescribed under a regulation that deals with the registration of vehicles; or
- (b) a law of the Commonwealth or another State that deals generally with the same subject matter as an Act mentioned in paragraph (a).

**registration fee** means the fee prescribed under a regulation for registering an unpaid amount under this Act.

**relevant officer**, for part 8, see section 131.

**relevant person**, for part 7, see section 122.

**relevant time**, for an offence involving a vehicle, means the time and date specified in the infringement notice as the time and date of the offence.

**responsible operator**, of a vehicle, means a person nominated as a responsible operator for the vehicle under the *Transport Operations (Road Use Management) Act 1995*, section 170.

**search warrant** see section 71.

**securities** includes—

- (a) annuities; and
- (b) debentures; and
- (c) stocks; and
- (d) bonds; and
- (e) shares; and
- (f) marketable securities; and
- (g) units of—
  - (i) shares; or
  - (ii) marketable securities; or
  - (iii) interests prescribed under a regulation.

**SMS** means short messaging service.



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***sold vehicle declaration***, for an offence involving a vehicle, means a statutory declaration stating facts establishing the owner had sold or otherwise disposed of the vehicle before the relevant time and was not in charge of the vehicle at that time, including—

- (a) the name and address of the person to whom the vehicle was sold or disposed of; and
- (b) the date and, if relevant, time of the sale or disposal; and
- (c) if an agent made the sale or disposal for the owner, the name and address of the agent.

***SPER*** means the registry established under part 2.

***suspend***, a driver licence, includes suspend a person's eligibility to apply for or obtain a driver licence.

***third person*** means a person, including the State, from whom a debt—

- (a) is payable to an enforcement debtor; or
- (b) is likely to become payable to an enforcement debtor.

***threshold amount***, for an infringement notice fine, means the amount, prescribed under a regulation, at or above which a person may apply to an administering authority for approval to pay the fine by instalments.

***undeducted amount*** see section 88.

***unknown user declaration***, for an offence involving a vehicle, means a statutory declaration stating—

- (a) if the owner is—
  - (i) an individual—the owner was not in charge of the vehicle at the relevant time; or
  - (ii) a corporation—the vehicle was not being used for the corporation at the relevant time; and
- (b) the person making the declaration has not been able to find out who was in charge of the vehicle at the relevant time; and

- (c) the nature of the inquiries made to find out the name and address of the person in charge of the vehicle at the relevant time.

**vehicle** includes a boat.

**vehicle insurance policy** see section 108(4).

**wheelchair** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

**wheeled recreational device** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

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## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 September 2012. Future amendments of the State Penalties Enforcement Act 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	2000 Act No. 58	27 November 2000	1 December 2000
1A	2001 Act No. 45	15 July 2001	28 September 2001
Reprint No.	Amendments included	Effective	Notes
1B	2002 Act No. 34	16 August 2002	
1C	2002 Act No. 34	1 June 2003	
1D	2003 Act No. 77	8 December 2003	
1E	2005 Act No. 70	8 December 2005	
1F	2000 Act No. 5 (amd 2006 Act No. 26)	21 July 2006	
1G	2006 Act No. 29	28 August 2006	R1G withdrawn, see R2
2	—	28 August 2006	
2A	2007 Act No. 3	30 April 2007	

Reprint No.	Amendments included	Effective	Notes
2B	2007 Act No. 37	28 September 2007	
2C	2009 Act No. 25	2 November 2009	
2D	2009 Act No. 47	19 November 2009	
	2009 Act No. 48		
2E	2009 Act No. 35	1 December 2009	
2F	2009 Act No. 48	1 January 2010	R2F withdrawn, see R3
3	—	1 January 2010	
3A	2009 Act No. 34	29 March 2010	
3B	2009 Act No. 50	1 July 2010	
3C	2010 Act No. 26	1 September 2010	
3D	2010 Act No. 42	14 October 2010	
3E	2011 Act No. 27	30 January 2012	
3F	2012 Act No. 17	21 August 2012	
3G	2011 Act No. 45 (amd 2012 Act No. 17)	1 September 2012	
3H	2012 Act No. 25	21 September 2012	

## 5 List of legislation

### **State Penalties Enforcement Act 1999 No. 70**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 27 November 2000 (2000 SL No. 274)

amending legislation—

### **Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch**

date of assent 17 November 2000

commenced on date of assent

### **Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provisions commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

### **Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 ss 1, 2(1), pt 15**

date of assent 16 August 2002

ss 1–2 commenced on date of assent

ss 56–57 commenced 1 June 2003 (2003 SL No. 80)

remaining provisions commenced on date of assent

**Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 23**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 8 December 2003 (2003 SL No. 310)

**Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 22**

date of assent 8 December 2005

commenced on date of assent

**Police Powers and Responsibilities Act 2000 No. 5 s 810 sch 4 (prev s 459A sch 3A)  
(this Act is amended, see amending legislation below)**

amending legislation—

**Police Powers and Responsibilities and Other Acts Amendment Act 2006  
No. 26 ss 1–2, 84, 86 (amends 2000 No. 5 above)**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

**Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 28 August 2006 (2006 SL No. 213)

**State Penalties Enforcement and Other Legislation Amendment Act 2007 No. 3 pts  
1–2**

date of assent 16 February 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 30 April 2007 (2007 SL No. 51)

**Justice and Other Legislation Amendment Act 2007 No. 37 ss 1, 162 sch**

date of assent 29 August 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 28 September 2007 (2007 SL No. 241)

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and  
Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(1) sch pt 1  
amdt 31**

date of assent 17 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 29 March 2010 (2010 SL No. 37)

**Victims of Crime Assistance Act 2009 No. 35 ss 1–2, ch 7 pt 7**

date of assent 17 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 277)

**Transport and Other Legislation Amendment Act 2009 No. 47 ss 1, 40 sch**

date of assent 19 November 2009  
commenced on date of assent

**State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 ss 1, 2(1), ch 2 pt 1**

date of assent 19 November 2009  
ss 1–2, 4, 12, 35 and 38 commenced on date of assent (see s 2(1))  
remaining provisions commenced 1 January 2010 (see s 2(1))

**Trade Measurement Legislation Repeal Act 2009 No. 50 ss 1–2, 18 sch**

date of assent 19 November 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2010 (2010 SL No. 127)

**Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010 No. 26 pts 1, 19**

date of assent 13 August 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 September 2010 (2010 SL No. 236)

**Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 32**

date of assent 14 October 2010  
commenced on date of assent

**Local Government Electoral Act 2011 No. 27 ss 1, 2(2), pt 12 div 16**

date of assent 1 September 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 30 January 2012 (2011 SL No. 302)

**Civil Proceedings Act 2011 No. 45 ss 1–2, 217 sch 1A (this Act is amended, see amending legislation below)**

date of assent 6 December 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 September 2012 (2012 SL No. 146)

amending legislation—

**Penalties and Sentences and Other Legislation Amendment Act 2012 No. 17 ss 1, 11 (amends 2011 No. 45 above)**

date of assent 14 August 2012  
commenced on date of assent

**Penalties and Sentences and Other Legislation Amendment Act 2012 No. 17 pts 1, 12**

date of assent 14 August 2012  
ss 1–2 commenced on date of assent  
remaining provisions commenced 21 August 2012 (see s 2)

**Fiscal Repair Amendment Act 2012 No. 25 s 1, pt 9**

date of assent 21 September 2012  
commenced on date of assent

## 6 List of annotations

### **Act has limited application to children**

s 5 amd 2009 No. 34 s 45(1) sch pt 1 amdt 31

### **Registrar and other staff of SPER**

prov hdg amd 2002 No. 34 s 53

s 10 amd 2000 No. 58 s 2 sch; 2009 No. 25 s 83 sch

### **Management of office**

s 11 amd 2000 No. 58 s 2 sch; 2007 No. 3 s 4

### **Infringement notices**

s 15 amd 2000 No. 58 s 2 sch; 2007 No. 3 s 5

### **Ways alleged offender may deal with infringement notice**

s 22 amd 2007 No. 3 s 6

### **Application to pay fine by instalments**

s 23 amd 2000 No. 58 s 2 sch; 2007 No. 3 s 7

### **Registration of instalment payments for infringement notices**

s 24 amd 2000 No. 58 s 2 sch; 2010 No. 42 s 184

### **Application to cancel infringement notice for mistake of fact**

s 30 amd 2000 No. 58 s 2 sch; 2010 No. 42 s 185

### **Proceedings after cancellation of infringement notice**

s 32 amd 2000 No. 58 s 2 sch; 2010 No. 42 s 186

### **Default by person served with infringement notice**

s 33 amd 2000 No. 58 s 2 sch; 2007 No. 3 s 8

### **Default in paying fine, penalty or other amount under court order**

s 34 amd 2007 No. 3 s 9; 2009 No. 48 s 4; 2012 No. 17 s 43

### **Effect of registration under this division**

s 35 amd 2007 No. 3 s 10

### **Default in paying instalment**

s 36 amd 2007 No. 3 s 11

### **Issue of enforcement order**

s 38 amd 2007 No. 3 s 12

### **Working out period of imprisonment for enforcement order**

s 39 om 2007 No. 3 s 13

### **Ways enforcement debtor may deal with enforcement order**

s 41 amd 2000 No. 58 s 2 sch; 2002 No. 34 s 54; 2007 No. 3 s 14

### **Application to pay by instalments**

s 42 amd 2000 No. 58 s 2 sch  
sub 2007 No. 3 s 15



**Fine option order only for unpaid fine**

s 46 amd 2000 No. 58 s 2 sch; 2007 No. 3 s 16; 2010 No. 42 s 187

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**Making and registration of fine option order**

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**Default after time to pay**

s 52 amd 2007 No. 3 s 17

**Working out period of imprisonment for arrest and imprisonment warrant**

s 52A ins 2007 No. 3 s 18

**Effect of appeal on enforcement order for offender levy**

s 54A ins 2012 No. 17 s 44

**Application of div 6**

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om 2007 No. 3 s 22

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s 60 amd 2010 No. 42 s 191

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**Renewal of enforcement warrant**

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**Effect of warrant imposing charge on property**

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**Offence of concealing, selling, transferring or otherwise dealing with property subject to seizure**

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**Enforcement officer may authorise tow**

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**Enforcement warrant to seize and sell property**

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**Registrar may write off unpaid fine or other amount**

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**Registrar may advise commissioner of police service of particular information**

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**Registrar may require translation or conversion of document or information**

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**Division 6—Transitional provision for Civil and Criminal Jurisdiction Reform and  
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**SCHEDULE 1—ACTS AMENDED**

om R1 (see RA s 40)

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def “**appropriately qualified public service officer**” ins 2009 No. 48 s 39(2)

def “**arrest and imprisonment warrant**” amd 2002 No. 34 s 59(3)

def “**chief executive (corrective services)**” sub 2002 No. 34 s 59(1)–(2)

om 2007 No. 37 s 162 sch

def “**commercial agent**” sub 2002 No. 34 s 59(1)–(2)

def “**community service**” sub 2006 No. 29 s 518 sch 3

def “**corrective services office**” amd 2006 No. 29 s 518 sch 3

def “**cut-out rate**” amd 2007 No. 3 s 36  
def “**enforcement officer**” sub 2009 No. 48 s 39  
def “**fine option order**” amd 2000 No. 58 s 2 sch  
def “**good behaviour order**” ins 2009 No. 48 s 39(2)  
def “**immobilisation notice**” ins 2009 No. 48 s 39(2)  
def “**immobilisation period**” ins 2009 No. 48 s 39(2)  
def “**immobilisation search warrant**” ins 2009 No. 48 s 39(2)  
def “**immobilisation warrant**” ins 2009 No. 48 s 39(2)  
def “**immobilising device**” ins 2009 No. 48 s 39(2)  
def “**interest in a managed investment scheme**” ins 2001 No. 45 s 29 sch 3  
def “**motor vehicle**” ins 2000 No. 58 s 2 sch  
def “**offender levy**” ins 2012 No. 17 s 47  
def “**prescribed interest**” om 2001 No. 45 s 29 sch 3  
def “**public service officer**” ins 2009 No. 48 s 39(2)  
def “**quad bike**” ins 2009 No. 48 s 39(2)  
def “**registered operator**” ins 2009 No. 48 s 39(2)  
def “**SMS**” ins 2009 No. 48 s 39(2)  
def “**vehicle**” ins 2000 No. 58 s 2 sch  
def “**vehicle insurance policy**” ins 2009 No. 48 s 39(2)  
def “**wheelchair**” ins 2009 No. 48 s 39(2)  
def “**wheeled recreational device**” ins 2009 No. 48 s 39(2)

## 7 Forms notified or published in the gazette

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