

State Penalties Enforcement Amendment Regulation (No. 2) 2014

Explanatory notes for SL 2014 No. 323

made under the

State Penalties Enforcement Act 1999

General Outline

State Penalties Enforcement Amendment Regulation (No. 2) 2014

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The *State Penalties Enforcement Act 1999* (the Act) was enacted to create the State Penalties Enforcement Registry, administered by a Registrar, with the objectives of:

- maintaining the integrity of fines as a viable sentencing or punitive option for offenders;
- maintaining confidence in the justice system by enhancing the way fines and other monetary penalties may be enforced; and
- reducing the cost to the State of enforcing fines and other monetary penalties.

Part 3 of the Act provides the legislative basis and supporting framework for the issuing of a penalty infringement notice (PIN), commonly known as a fine or ticket, for an infringement notice offence. An infringement notice offence is “an offence other than an indictable offence or an offence against the person, prescribed under the regulation to be an offence to which the Act applies”.

Section 165 of the Act provides for the making of regulations under the Act, including the prescription of offences as infringement notice offences. The current *State Penalties Enforcement Regulation 2014* (SPE Regulation) commenced on 1 September 2014.

The objectives of the *State Penalties Enforcement Amendment Regulation (No. 2) 2014* (the Amendment Regulation) are:

- to ensure that the power of authorised persons appointed under the *Electoral Act 1992* (Electoral Act) to issue PINs under the SPE Regulation, is consistent with limitations on their enforcement powers under the Electoral Act;
- to prescribe a number of new PIN offences under the *Tobacco and Other Smoking Products Act 1998*, to assist with the enforcement of new smoking bans around hospitals and schools;
- to prescribe a number of PIN offences under the *Environmental Protection Regulation 2008* and *Waste Reduction and Recycling Regulation 2011* in place of previous corresponding PIN offences under the repealed *Environmental Protection (Waste Management) Regulation 2000*, and decrease the penalty amounts for a number of existing PIN offences under the *Waste Reduction and Recycling Regulation 2011* to reflect decreased maximum penalties for the offence provisions;
- as a consequence of amendments in the *Environmental Protection and Other Legislation Amendment Act 2014*: to amend existing PIN offences under the *Environmental Protection Act 1994* to increase PIN amounts following increases to the maximum penalties for these offences; to confine the PIN offences to non-wilful offending for those offences which now differentiate between wilful and non-wilful offending; to remove a number of existing PIN offences; and introduce new PIN offences; and
- make other minor and consequential amendments.

Achievement of policy objectives

The Amendment Regulation achieves these policy objectives by amending the SPE Regulation:

- to make the power of authorised persons appointed under the Electoral Act under the SPE Regulation consistent with limitations on their enforcement powers under the Electoral Act;
- to prescribe new PIN offences under the *Tobacco and Other Smoking Products Act 1998*, the *Environmental Protection Regulation 2008* and *Waste Reduction and Recycling Regulation 2011*;
- to decrease the penalty amounts for some existing PIN offences under the *Waste Reduction and Recycling Regulation 2011*;
- for PIN offences under the *Environmental Protection Act 1994*, to increase certain PIN amounts, to confine the certain PIN offences to non-wilful offending, to remove a number of existing PIN offences and introduce new PIN offences; and
- make other minor and consequential amendments.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Act which provides for the prescription of suitable offences as PIN offences.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation will have no implementation costs for Government.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation was consulted and confirmed that a Regulatory Impact Statement is not required.