



Queensland

State Penalties Enforcement (Hardship and Safeguards) Amendment Regulation 2018

Subordinate Legislation 2018 No. 52

made under the

State Penalties Enforcement Act 1999

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1 Short title

This regulation may be cited as the *State Penalties Enforcement (Hardship and Safeguards) Amendment Regulation 2018*.

2 Commencement

Section 8 commences on 1 July 2018.

3 Regulation amended

This regulation amends the *State Penalties Enforcement Regulation 2014*.

4 Omission of s 19 (Additional particulars for fine collection notice for regular redirection of earnings)

Section 19—
omit.

5 Insertion of new pt 5A

After section 19—
insert—

Part 5A Work and development orders

19AA Remote areas—Act, s 32G

For the Act, section 32G(3), definition *remote area*, an area of the State identified as remote Australia or very remote Australia under the document called ‘Australian Statistical Geography Standard (ASGS): Volume 5 - Remoteness Structure’ published by the Australian Bureau of Statistics is prescribed.

19AB Mental illnesses—Act, s 32H

For section 32H(b) of the Act, mental illness has the meaning given by the *Mental Health Act 2016*, section 10.

19AC Substance use disorders—Act, s 32H

- (1) For section 32H(e) of the Act, a prescribed substance use disorder is a pattern of substance use evaluated as being moderate or severe under the DSM-5.
- (2) In this section—
DSM-5 means the 5th edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

19AD Supporting evidence for particular eligibility assessments—Act, s 165

- (1) This section applies to an eligibility assessment for an individual who is unable to pay the enforceable amount of the individual's SPER debt because the individual has a substance use disorder.
- (2) For section 165(12)(c) of the Act, the eligibility assessment must include a document that includes details of—
 - (a) the nature, severity and effects of the substance use disorder; and
 - (b) how long the individual has had the substance use disorder.

19AE Prescribed activity—Act, sch 2, definition *unpaid work*

- (1) For the Act, schedule 2, definition *unpaid work*, paragraph (b), a prescribed activity is any activity

performed by a person for an approved sponsor that does not result in a personal benefit to—

- (a) the sponsor; or
- (b) an associate of the sponsor; or
- (c) a relative of the sponsor; or
- (d) a person who supervises the person for the sponsor.

(2) However, an activity performed by a person for an approved sponsor is not unpaid work if—

- (a) the activity is a function of regulated employment under the *Working with Children (Risk Management and Screening) Act 2000* and the person does not hold a blue card positive notice under that Act; or
- (b) the sponsor is a funded non-government service provider or an NDIS non-government service provider under the *Disability Services Act 2006* and the person does not hold a positive notice given under that Act.

(3) In this section—

associate, of a sponsor, means—

- (a) a representative of the sponsor; or
- (b) a person who conducts a business or undertaking with the sponsor.

relative see the *Domestic and Family Violence Protection Act 2012*, section 19(2) to (5).

representative, of a sponsor, means—

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

19AF Amounts satisfied by work and development order—Act, s 165

- (1) For section 165(11)(c) of the Act, a person who undertakes an activity under a work and development order is taken to have satisfied the person's SPER debt by the amount stated opposite the activity in schedule 1A.
- (2) For schedule 1A, if the person undertakes a medical or mental health treatment, drug or alcohol treatment or mentoring program for a month, the person's SPER debt is reduced by the amount worked out using the formula—

$$\$1,000 \times \frac{A}{B}$$

where—

A means the number of hours the person undertakes for the month in the medical or mental health treatment, drug or alcohol treatment or mentoring program.

B means the number of hours the person was expected to undertake for the month in the medical or mental health treatment, drug or alcohol treatment or mentoring program.

- (3) However, a person's SPER debt may not be satisfied under this section by more than \$1,000 in a month.

6 Amendment of s 19A (Prescribed additional way of serving infringement notices—Act, s 158(1)(c))

- (1) Section 19A, heading—
omit, insert—

19A Serving infringement notices by electronic communication—Act, s 158

- (2) Section 19A(1)(b) and example—

omit, insert—

- (b) the relevant person consents to being served with the infringement notice by way of the authorised person using electronic communication to send the notice to a unique electronic address nominated by the relevant person.

- (3) Section 19A(3) to (5)—

omit, insert—

- (3) For section 158(1)(d) of the Act, the infringement notice may be served on the relevant person by the authorised person sending the notice by electronic communication to the unique electronic address nominated by the relevant person.
- (4) For section 158(3)(b) of the Act, the day prescribed for the method of service stated in subsection (3) is the day the authorised person sends the infringement notice to the unique electronic address.
- (5) In this section—
- unique electronic address***, for a person, means a fixed designation on a communication network assigned to the person for the purpose of the person receiving information.

Examples—

an email address, mobile phone number or user account

7 Insertion of new ss 19B and 20A–20C

Part 6—

insert—

19B Serving infringement notices by post—Act, s 158

- (1) This section applies if—
 - (a) an authorised person may serve an infringement notice for an infringement notice offence on a person under section 13 of the Act; and
 - (b) the offence does not involve a vehicle.
- (2) For section 158(1)(d) of the Act, the infringement notice may be served on the person by the authorised person sending the notice by post to the postal address of the person.
- (3) For section 158(3)(b) of the Act, the day prescribed for the method of service stated in subsection (2) is the day the infringement notice would be delivered in the ordinary course of post.

20A Administrative charge—Act, s 102

- (1) For section 102(1)(b) of the Act, the amount prescribed for an administrative cost of complying with a fine collection notice is \$13.
- (2) The amount prescribed may be charged for each amount deducted from an enforcement debtor's account.

20B Protected amount—Act, ss 102 and 103C

For sections 102(2)(b) and 103C(3)(b) of the Act, the amount prescribed as the protected amount is the protected earnings rate for a 1-week period.

20C Administrative cost—Act, s 103C

- (1) For section 103C(5) of the Act, the amount prescribed for an administrative cost of complying with a fine collection notice is \$13.

-
- (2) However, if a financial institution deducts amounts from 2 or more accounts of the enforcement debtor—
- (a) the amount prescribed under subsection (1) applies only to 1 account of the enforcement debtor; and
 - (b) the amount prescribed for the other accounts of the enforcement debtor is \$0.

8 Amendment of s 24 (Cut-out rate)

- (1) Section 24(1), ‘(f)’—
omit, insert—
- (e)
- (2) Section 24(2)—
omit.
- (3) Section 24(3)—
renumber as section 24(2).

9 Insertion of new s 28A

After section 28—
insert—

28A Waiver or return of fees for enforcement orders—Act, s 150AA

- (1) This section applies if an enforcement order is issued against a person in relation to an infringement notice offence.
- (2) The registrar may waive or return all or part of a fee payable by the person for the enforcement order if—
- (a) within 28 days of the date of the enforcement order, the person applies to SPER under section 42 of the Act; and

[s 10]

- (b) the registrar approves the application; and
 - (c) the registrar is satisfied—
 - (i) the fine for the relevant infringement notice offence is less than the threshold amount; and
 - (ii) the person is unable to pay the amount stated in the infringement notice because the person is experiencing financial hardship.
- (3) Without limiting subsection (2), the registrar may waive or return all or part of a fee payable by the person for the enforcement order if—
- (a) the person and an approved sponsor enter an agreement mentioned in section 32J(1) or 32O(1) of the Act within 28 days of the date of the infringement notice; and
 - (b) an application is made on behalf of the person under section 32J(1) or 32O(1) of the Act.

10 Amendment of s 29 (Expenses for attendance—Act, s 152A)

- (1) Section 29, heading, ‘152A’—

omit, insert—

134D

- (2) Section 29(1), ‘152A(8)’—

omit, insert—

134D(7)

11 Insertion of new sch 1A

After schedule 1—

insert—

Schedule 1A Amount satisfied by work and development order

section 19AF

Work, treatment or program	Amount
unpaid work for an approved sponsor	\$30 for each hour worked
medical or mental health treatment under an approved sponsor's treatment plan	see section 19AF(2)
an educational, vocational or life skills course	\$50 for each hour undertaken
financial or other counselling	\$50 for each hour undertaken
drug or alcohol treatment	see section 19AF(2)
a mentoring program	see section 19AF(2)
a culturally appropriate program	\$50 for each hour undertaken

ENDNOTES

- 1 Made by the Governor in Council on 10 May 2018.
- 2 Notified on the Queensland legislation website on 11 May 2018.
- 3 The administering agency is Queensland Treasury.

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