

2003

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (AGENTS INFRINGEMENT NOTICES) REGULATIONS 2003

SUBORDINATE LAW No 2003-39

EXPLANATORY STATEMENT

**Circulated by authority of the
Attorney General
Mr Jon Stanhope MLA**

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Outline

Part 8 of the *Magistrates Court Act 1930* provides for the issue of infringement notices for offences listed in regulations. The Magistrates Court (Agents Infringement Notices) Regulations 2003 (the regulations) enable infringement notices to be issued for certain offences in the *Agents Act 2003*.

The *Agents Act 2003* regulates the conduct of real estate, stock and station, business, travel agents and employment agents in the ACT by the imposition of a licensing and registration system for agents and their employees including salespeople and property managers, and a complaints and disciplinary system which embraces all parties to a real estate transaction including, the principal, the agent and the consumer. The Act also strengthens enforcement measures to ensure the integrity of agents' trust accounts and introduces new offences to protect consumers.

The ability to issue infringement notices for offences against the *Agents Act 2003* will encourage compliance with the legislation and will allow for immediate action to be taken against people who are breaching the law. This initiative should provide greater protection for the ACT community.

Statutory Notes

Regulation 1 – Name of regulations – names the regulations as the *Magistrates Court (Agents Infringement Notices) Regulations 2003*.

Regulation 2 – Commencement – states that the regulations commence on the later of either 1 November 2003, or the day after their notification day.

Regulation 3 – Purpose of regulations – explains that the purpose of the regulations is to create a system of infringement notices under the *Magistrates Court Act 1930* for offences against the *Agents Act 2003*.

Regulation 4 – Notes – explains that the notes included in the regulations are explanatory and do not form part of the regulations.

Regulation 5 – Meaning of *Agents Act* – makes it clear that reference to the *Agents Act* in the regulations means the *Agents Act 2003*.

Regulation 6 – Administering authority – provides that the administering authority for infringement notices against the *Agents Act* is the Commissioner for Fair Trading.

Regulation 7 – Infringement notice offences – provides that infringement notices can be issued for offences against various provisions of the *Agents Act* listed in schedule 1 column 2.

Regulation 8 – Infringement notice penalties – provides that the penalties for the offences in schedule 1 are listed in column 4 of the schedule. The penalties for corporations are five times the amount listed in column 4 of the schedule.

This regulation also provides that a charge of \$34 will be imposed for serving a reminder notice on a person who has not paid their infringement notice.

Regulation 9 – Contents of infringement notices – other information – specifies that infringement notices served on a company must include the company's ACN.

Regulation 10 – Contents of infringement notices – identifying investigators – the purpose of this regulation is to ensure that an investigator authorised by the Commissioner for Fair Trading who serves an infringement notice on a person can be identified as the serving officer of the infringement notice.

Regulation 11 – Contents of reminder notices – identifying authorised person – provides that the reminder notice for the infringement notice must identify the authorised person who served the notice by their full name or surname and initials and the date of issue and date of expiry of their identity card.

Regulation 12 – Authorised people for infringement notice offences – provides that an infringement notice or a reminder notice under these regulations may be issued by a person authorised by the Commissioner for Fair Trading under section 9 of the *Fair Trading (Consumer Affairs) Act 1973*.

Schedule 1 – Agents Act infringement notice offences and penalties – lists the offences for which an infringement notice can be issued. The schedule lists the maximum number of penalty units for the offence and the penalty that can be imposed for the offence by infringement notice. The schedule provides that the maximum penalty for any infringement notice is \$2,000 for an individual.