



Australian Capital Territory

Magistrates Court (Infringement Notices) Amendment Act 2020

A2020-5

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Australian Capital Territory

Magistrates Court (Infringement Notices) Amendment Act 2020

A2020-5

An Act to amend the *Magistrates Court Act 1930* and the *Magistrates Court Regulation 2009*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Magistrates Court (Infringement Notices) Amendment Act 2020*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.
Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).
Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).
- (2) If this Act has not commenced within 2 years beginning on its notification day, it automatically commences on the first day after that period.
- (3) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended

This Act amends the *Magistrates Court Act 1930* and the *Magistrates Court Regulation 2009*.

Part 2 Magistrates Court Act 1930

4 Definitions for pt 3.8 Section 117, new definitions

insert

approved community work or social development program means a community work or social development program approved under section 131AD.

infringement notice management plan—see section 131AA.

relevant circumstances, of a person, means any of the following circumstances that relate to the person and contributes to the person's ability to pay an infringement notice penalty:

- (a) mental illness or mental disorder;
- (b) disability, disease or illness;
- (c) addiction to drugs, alcohol or another substance;
- (d) family violence;
- (e) homelessness, or living in crisis, transitional or supported accommodation;
- (f) anything else prescribed by regulation.

responsible director-general means the director-general for the [Crimes \(Sentence Administration\) Act 2005](#), part 6.2 (Good behaviour—community service work).

5 New section 117 (2)

insert

(2) In this section:

disability—see the *Disability Services Act 1991*, dictionary.

mental disorder—see the *Mental Health Act 2015*, section 9.

mental illness—see the *Mental Health Act 2015*, section 10.

**6 Purpose and effect of pt 3.8
Section 118 (2) (b) (ii)**

substitute

- (ii) the person does not comply with an infringement or reminder notice served on the person for the offence, or an infringement notice management plan entered into in relation to the offence; or

**7 Additional information in infringement notices
New section 122 (1) (ba)**

insert

- (ba) the person may, within 28 days after the date of service of the notice, apply to the administering authority to—
 - (i) enter into an infringement notice management plan; or
 - (ii) if the person has an infringement notice management plan—add the infringement notice penalty for the offence to the plan; or
 - (iii) waive the infringement notice penalty; and

8 New section 122 (1) (bb)

insert

- (bb) the person may apply to the administering authority, in writing, for additional time to do a thing mentioned in paragraph (ba); and

9 Section 122 (1) (d)

omit everything before subparagraph (i), substitute

- (d) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority) or the penalty is waived, then, unless the infringement notice is withdrawn and any penalty refunded—

10 Section 122 (1) (g)

omit

or disputes liability

substitute

apply to have the penalty waived or dispute liability

11 Section 122 (2) (b)

substitute

- (b) explain how the person may apply for—
- (i) an infringement notice management plan or, if the person has an infringement notice management plan, the addition of the infringement notice penalty to the plan; or
 - (ii) waiver of the infringement notice penalty; and

- (c) explain how the person may apply for additional time to do any of the following:
 - (i) pay the infringement notice penalty;
 - (ii) dispute liability for the offence;
 - (iii) apply for an infringement notice management plan or, if the person has an infringement notice management plan, the addition of the infringement notice penalty to the plan;
 - (iv) apply for waiver of the infringement notice penalty.

12 Section 123

substitute

123 Discharge of infringement notice penalty

The infringement notice penalty payable by a person under an infringement notice or reminder notice—

- (a) is payable within 28 days after the day the notice is served; or
- (b) if the person applies to the administering authority within the 28 days for additional time to pay and additional time is allowed—is payable within the additional time allowed by the administering authority; or
- (c) if the person applies to the administering authority within the 28 days for additional time to pay and the application is refused—is payable within 7 days after the day the person is told of the refusal or 28 days after the day the notice was served, whichever is later; or
- (d) if the person applies to the administering authority within the 28 days for an infringement notice management plan and the application is allowed—is payable or otherwise to be discharged in accordance with the plan; or

- (e) if the person applies to the administering authority within the 28 days for an infringement notice management plan and the application is refused—is payable within 7 days after the day the person is told of the refusal or 28 days after the day the notice was served, whichever is later; or
- (f) if the person applies to the administering authority within the 28 days for waiver of the infringement notice penalty for the offence and the application is refused—is payable within 7 days after the day the person is told of the refusal or 28 days after the day the notice was served, whichever is later.

13 Extension of time to pay penalty Section 124 (1)

substitute

- (1) A person may apply, in writing, for an extension of time to do any of the following:
 - (a) pay the infringement notice penalty stated in the reminder notice;
 - (b) apply to the administering authority under section 126 to withdraw the infringement notice;
 - (c) apply to the administering authority under section 131AA to—
 - (i) enter into an infringement notice management plan; or
 - (ii) add the infringement notice penalty for the offence to the plan;
 - (d) apply to the administering authority under section 131AE to waive the infringement notice penalty;
 - (e) give the administering authority notice disputing liability for the infringement notice offence.

14 New section 124A

insert

124A Extension of time—guidelines

- (1) The Minister may issue guidelines for deciding applications for extensions of time, including applications made after the time for doing something mentioned in section 124 (1).
- (2) The administering authority for an infringement notice offence must comply with any guidelines for deciding an application for an extension of time.
- (3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**15 Effect of payment of infringement notice penalty
Section 125 (1), except note**

substitute

- (1) This section applies—
 - (a) if—
 - (i) a person has been served with an infringement notice for an offence; and
 - (ii) one of the following things happens:
 - (A) the person pays the infringement notice penalty for the offence in accordance with this part;
 - (B) the person enters into an infringement notice management plan for the infringement notice penalty for the offence or the penalty is added to the person's infringement notice management plan;

- (C) the administering authority waives the infringement notice penalty for the offence; and
- (iii) when the thing happened—
 - (A) the infringement notice had not been withdrawn; and
 - (B) a proceeding had not been brought against the person for the offence; or
- (b) if—
 - (i) more than 1 infringement notice for the same infringement notice offence has been served on a person and none of the infringement notices has been withdrawn; and
 - (ii) one of the following things happens:
 - (A) the person pays the infringement notice penalty for the offence in accordance with this part, in relation to 1 of the notices;
 - (B) the person enters into an infringement notice management plan for the infringement notice penalty for the offence, or the penalty is added to the person's infringement notice management plan, in relation to 1 of the notices;
 - (C) the administering authority waives the infringement notice penalty for the offence in relation to 1 of the notices.

16 Section 125 (3)

substitute

- (3) This section is subject to section 127 (Withdrawal of infringement notice).

**17 Guidelines about withdrawal of infringement notices
Section 128 (1)**

substitute

- (1) The Minister may issue guidelines about the exercise of an administering authority's functions under section 126 (Application for withdrawal of infringement notice) or section 127 (Withdrawal of infringement notice).

**18 Reminder notices
New section 129 (da)**

insert

- (da) the person has not applied to the administering authority for waiver of the infringement notice penalty; and

**19 Additional information in reminder notices
Section 131 (1) (e) and (f)**

substitute

- (e) within the required time after the reminder notice is served on the person, the person may do 1 or more of the following things:
- (i) pay the infringement notice penalty now payable for the offence;
 - (ii) apply to the administering authority for—
 - (A) an infringement notice management plan; or
 - (B) if the person has an infringement notice management plan—the addition of the infringement notice penalty to the plan; or
 - (C) waiver of the infringement notice penalty;

- (iii) dispute liability for the offence;
- (iv) apply to the administering authority for additional time to do the thing; and

20 Section 131 (1) (h)

omit everything before subparagraph (i), substitute

- (h) if the person pays the penalty within the required time or the penalty is waived, then, unless the infringement notice is withdrawn and any penalty refunded—

21 Section 131 (1) (k)

substitute

- (k) if the person does not pay the infringement notice penalty, apply to have the penalty waived or dispute liability for the offence within the required time, the person may be prosecuted for the offence.

22 Section 131 (2) (b)

substitute

- (b) explain how the person may apply for—
 - (i) an infringement notice management plan; or
 - (ii) if the person has an infringement notice management plan—the addition of the infringement notice penalty to the plan; or
 - (iii) waiver of the infringement notice penalty; and
- (c) explain how the person may apply for additional time to—
 - (i) pay the infringement notice penalty; or

- (ii) apply for 1 of the following:
 - (A) an infringement notice management plan;
 - (B) if the person has an infringement notice management plan—the addition of the infringement notice penalty to the plan;
 - (C) waiver of the infringement notice penalty; or
- (iii) dispute liability for the offence.

23 New section 131 (3)

insert

- (3) In this section:

the required time, for a person to do something mentioned in this section, means—

- (a) 28 days after the day the reminder notice for the offence was served; or
- (b) any additional time allowed to do the thing; or
- (c) if an application for additional time was refused, the later of the following:
 - (i) 7 days after the day the person is given notice of the refusal;
 - (ii) 28 days after the date of issue of the reminder notice.

24 New divisions 3.8.2A and 3.8.2B*insert***Division 3.8.2A Infringement notice management plans****131AA Application for infringement notice management plan or addition to plan**

- (1) This section applies if a person is served with an infringement notice or reminder notice for an infringement notice offence.
- (2) If the person is an individual, the individual may apply to the administering authority—
 - (a) to enter into an arrangement (an *infringement notice management plan*) with the authority for discharge of the penalty for the offence by—
 - (i) payment by instalment; or
 - (ii) participating in an approved community work or social development program; or
 - (b) if the individual has an infringement notice management plan—to add the infringement notice penalty for the offence to the individual's plan.
- (3) If the person is a corporation, the corporation may apply to the administering authority—
 - (a) to enter into an arrangement (also an *infringement notice management plan*) with the authority for discharge of the penalty for the offence by payment by instalment; or
 - (b) if the corporation has an infringement notice management plan—to add the infringement notice penalty for the offence to the corporation's plan.

- (4) The application must include—
- (a) information about the person’s financial circumstances; and
 - (b) if the person is the holder of a card prescribed by regulation that is current—that information; and
 - (c) if the application is to participate in an approved community work or social development program—information about any relevant circumstances of the person; and
 - (d) anything else prescribed by regulation.

131AB Application for infringement notice management plan or addition to plan—decision

- (1) On application by a person under section 131AA, the administering authority must—
- (a) allow the application; or
 - (b) refuse the application.
- (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.
- (3) If the person is applying for an infringement notice management plan that allows payment by instalments, the administering authority—
- (a) must allow the application if the person is the holder of a card mentioned in section 131AA (4) (b); and
 - (b) in any other case—may allow the application if satisfied on reasonable grounds that it is justified because of the person’s financial circumstances.

- (4) If the person is applying for an infringement notice management plan that allows participation in an approved community work or social development program, the administering authority must allow the application if the responsible director-general agrees to the person participating in an approved community work or social development program under section 131AC.
- (5) If the administering authority allows an application for an infringement notice management plan that allows payment by instalments, the authority may decide the amount of the instalments that must be paid.
- (6) The administering authority must—
 - (a) if the application is allowed—tell the person, in writing—
 - (i) about the arrangements for entering into the infringement notice management plan or that the penalty has been added to the person's infringement notice management plan; and
 - (ii) if the person is paying instalments under the plan—that the authority may decide the amount of the instalments that must be paid; or
 - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.
- (7) A regulation may make provision in relation to the following:
 - (a) any conditions applying to allowing an application under section 131AA;
 - (b) conditions applying to infringement notice management plans, including the minimum amount that may be paid as an instalment under a plan;
 - (c) the payment of amounts under an infringement notice management plan, including the consequences of a payment not being honoured;

- (d) variation or suspension of a person's infringement notice management plan at the person's request;
- (e) the arrangements for participating in an approved community work or social development program, including when participation in an approved community work or social development program is taken to be finished and evidence of participation.

131AC Approved community work or social development program—responsible director-general's agreement

- (1) On receiving an application for an infringement notice management plan that allows a person to participate in an approved community work or social development program, the administering authority must ask the responsible director-general if the director-general agrees to the applicant participating in an approved community work or social development program.
- (2) The responsible director-general must—
 - (a) agree to the applicant participating in an approved community work or social development program; or
 - (b) refuse to agree.
- (3) The responsible director-general may, in writing, ask the applicant or a person mentioned in the application for more information to assist the director-general to make a decision under this section.
- (4) The responsible director-general may agree to the applicant's participation in an approved community work or social development program if satisfied on reasonable grounds that—
 - (a) it is justified because of either or both of the following:
 - (i) the financial circumstances of the applicant;
 - (ii) any relevant circumstances of the applicant; and

- (b) the applicant is suitable to participate in the program.
- (5) The responsible director-general may make guidelines about the exercise of the director-general's functions under subsection (4).
- (6) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

131AD Approval of community work or social development program

- (1) The responsible director-general may approve a community work or social development program for this division.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

Division 3.8.2B Waiver of infringement notice penalties

131AE Application for waiver of penalty

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority for waiver of the infringement notice penalty for the offence.
- (2) The application must set out—
 - (a) the person's financial circumstances; and
 - (b) the person's relevant circumstances; and
 - (c) anything else prescribed by regulation.

131AF Application for waiver of penalty—decision

- (1) On application by a person under section 131AE, the administering authority must—
 - (a) allow the application; or
 - (b) refuse the application.
- (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.
- (3) The administering authority must allow the application if satisfied on reasonable grounds that—
 - (a) the applicant does not have, and is unlikely to have, the financial ability to pay the infringement notice penalty; and
 - (b) relevant circumstances exist in relation to the applicant; and
 - (c) enforcement action has not resulted in, or is unlikely to result in, the payment of the infringement notice penalty; and
 - (d) the applicant is not a suitable person to discharge the penalty by completing an approved community work or social development program; and
 - (e) allowing the application is consistent with any guidelines made under section 131AG.
- (4) For subsection (3) (d), the administering authority may consult with the responsible director-general.
- (5) The administering authority must—
 - (a) if the application is allowed—tell the person in writing about the waiver of the infringement notice penalty; and
 - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.

131AG Guidelines for waiver of penalty

- (1) The Minister may make guidelines for the waiver of infringement notice penalties.
- (2) The administering authority for an infringement notice offence must comply with the guidelines.
- (3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**25 Extension of time to dispute liability
Section 133**

omit

26 Dictionary, new definitions

insert

approved community work or social development program, for part 3.8 (Infringement notices for certain offences)—see section 117.

infringement notice management plan, for part 3.8 (Infringement notices for certain offences)—see section 131AA.

relevant circumstances, of a person, for part 3.8 (Infringement notices for certain offences)—see section 117.

responsible director-general, for part 3.8 (Infringement notices for certain offences)—see section 117.

Part 3 Magistrates Court Regulation 2009

27 **New section 3A**

insert

3A **Application for infringement notice management plan or addition to plan—contents—Act, s 131AA (4) (b)**

- (1) The following cards are prescribed:
 - (a) a health care card issued under the *Social Security Act 1991* (Cwlth);
 - (b) a pensioner concession card issued under the *Social Security Act 1991* (Cwlth);
 - (c) a pensioner concession card issued in relation to a pension under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth);
 - (d) a gold card.
- (2) In this section:

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person's eligibility, under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth), to be provided with treatment for all injuries or diseases.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2019.

2 Notification

Notified under the [Legislation Act](#) on 27 February 2020.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Magistrates Court (Infringement Notices) Amendment Bill 2020, which originated in the Legislative Assembly as the Magistrates Court (Infringement Notices) Amendment Bill 2019 and was passed by the Assembly on 19 February 2020.

Acting Clerk of the Legislative Assembly

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