

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Sentence Administration) Amendment Bill 2010

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Crimes (Sentence Administration) Amendment Bill 2010

A Bill for

An Act to amend the *Crimes (Sentence Administration) Act 2005*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Crimes (Sentence Administration) Amendment*
3 *Act 2010*.

4 **2 Commencement**

5 This Act commences on 1 July 2010.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Crimes (Sentence Administration) Act 2005*.

10 *Note* This Act also amends the following legislation (see sch 1):

- 11 • *Bail Act 1992*
- 12 • *Court Procedures Act 2004*
- 13 • *Court Procedures Rules 2006*
- 14 • *Crimes (Sentencing) Act 2005*
- 15 • *Crimes (Sentencing) Regulation 2006*
- 16 • *Magistrates Court Act 1930*
- 17 • *Road Transport (Driver Licensing) Act 1999*
- 18 • *Road Transport (General) Act 1999*
- 19 • *Supreme Court Act 1933*
- 20 • *Victims of Crime Act 1994*.

1 **4 Application—pt 3.1**
2 **Section 10 (2), except notes**

3 *substitute*

4 (2) A reference in this section to a court sentencing an offender to
5 imprisonment includes—

6 (a) an entity prescribed by regulation sentencing an offender to
7 imprisonment; and

8 (b) a court ordering the imprisonment of a fine defaulter under
9 section 116ZK.

10 **5 Application—ch 5**
11 **Section 39, new note**

12 *insert*

13 *Note* This chapter also applies to a fine defaulter for whom a periodic
14 detention period is set under ch 6A (Court imposed fines) (see
15 s 116ZL (5)).

16 **6 New chapter 6A**

17 *insert*

18 **Chapter 6A Court imposed fines**

19 **Part 6A.1 General**

20 **116A Definitions—ch 6A**

21 In this chapter:

22 *administrative fee* means the administrative fee mentioned in
23 section 116G.

1 **default**—a person *defaults* in paying a fine (or any relevant
2 administrative fee in relation to the fine) if the person fails to pay
3 any part of the amount payable by—

- 4 (a) the due date stated in the relevant penalty notice; or
5 (b) if a default notice has been issued in relation to the fine—the
6 date stated in the default notice; or
7 (c) if the person has an arrangement approved under section 116K
8 for the fine—the date required under the arrangement.

9 **default notice** means a notice in force under section 116H and
10 includes any variation under section 116K.

11 **earnings redirection order**—see section 116Y (2).

12 **enforcement officer** means—

- 13 (a) the sheriff, a deputy sheriff or a sheriff’s assistant under the
14 *Supreme Court Act 1933*; or
15 (b) a person appointed by the chief executive as an enforcement
16 officer for this chapter.

17 *Note 1* For the making of appointments (including acting appointments), see
18 the Legislation Act, pt 19.3.

19 *Note 2* In particular, an appointment may be made by naming a person or
20 nominating the occupant of a position (see Legislation Act, s 207).

21 **examination hearing** means an examination hearing under
22 section 116T.

23 **examination notice**—see section 116P.

24 **examination warrant**—see section 116R.

- 1 ***fine*** means—
- 2 (a) a fine payable under a fine order under the *Crimes (Sentencing)*
3 *Act 2005*; or
- 4 (b) a fee or charge payable to the Territory that is imposed by a
5 court in a proceeding for an offence; or
- 6 (c) costs payable to the Territory under a court order in a
7 proceeding for an offence; or
- 8 (d) a levy imposed under the *Victims of Crime (Financial*
9 *Assistance) Act 1983*; or
- 10 (e) a victims services levy imposed under the *Victims of Crime*
11 *Act 1994*; or
- 12 (f) an amount payable under a reparation order under the *Crimes*
13 *(Sentencing) Act 2005* to—
- 14 (i) the Territory; or
- 15 (ii) a person in relation to whom a reparation order
16 agreement mentioned in section 116ZQ is in force; or
- 17 (g) a financial penalty imposed, other than under the *Crimes*
18 *(Sentencing) Act 2005*, in relation to an offence.
- 19 ***fine defaulter*** means a person who defaults in paying a fine (or any
20 relevant administrative fee in relation to the fine).
- 21 ***fine enforcement order*** means an order of the Magistrates Court
22 under section 116X for the enforcement of a fine.
- 23 ***outstanding fine***, in relation to a person, means the total of—
- 24 (a) the whole or any part of a fine that the person is liable to pay;
25 and
- 26 (b) the whole or any part of an administrative fee that the person is
27 liable to pay in relation to the fine.

- 1 (2) If an offender is liable to pay a fine as a result of a conviction or
2 order by the Magistrates Court, the notice of the conviction or order
3 required by the *Magistrates Court Act 1930*, section 116I
4 (Consequences of conviction in absence of defendant) or
5 section 141 (1) (b) (Minute of decision and notice to defendant)
6 must contain a penalty notice for the fine.
- 7 (3) A penalty notice for a fine must—
- 8 (a) state the amount of the fine and the due date for payment; and
- 9 (b) if the fine is payable by instalments—specify the amount of
10 each instalment; and
- 11 (c) state that if the fine or any instalment is not paid by the due
12 date for payment the offender is liable for the administrative
13 fee under section 116G in addition to the outstanding amount
14 of the fine; and
- 15 (d) state that, under section 116K, the chief executive may, on
16 written application made before the due date for payment,
17 approve an alternative arrangement about payment of the fine;
18 and
- 19 (e) state the obligation to notify the registrar of the offender's
20 address, and any change of address, under section 116D.

21 *Note* A penalty notice may be varied under s 116K (Payment arrangements).

22 **116D Offender to give registrar details of address**

- 23 (1) An offender on whom a fine is imposed must give the registrar
24 details of his or her home address and postal address within 7 days
25 after the day the fine is imposed.

26 Maximum penalty: 5 penalty units.

1 (2) An offender who is liable to pay a fine and who changes his or her
2 home address or postal address before the fine and any relevant
3 administrative fee are paid must give the registrar details of the new
4 address within 7 days after the day the change happens.

5 Maximum penalty: 5 penalty units.

6 (3) An offender who is liable to pay a fine must give the registrar
7 evidence of his or her home address and postal address if required to
8 do so by the registrar.

9 Maximum penalty: 5 penalty units.

10 **116E Registrar may ask other people for details of offender's**
11 **address**

12 (1) The registrar may, in writing, ask a relevant person to give the
13 registrar any details held by the person about an address of a stated
14 offender who is liable to pay a fine.

15 (2) The relevant person must comply with the request as far as
16 practicable.

17 (3) In this section:

18 *relevant person* means—

19 (a) the chief police officer; or

20 (b) the housing commissioner; or

21 (c) the chief executive (however described) of—

22 (i) an administrative unit; or

23 (ii) ACTEW Corporation Limited; or

24 (iii) a territory entity prescribed by regulation.

1 **116F Doubtful service**

- 2 (1) This section applies if—
- 3 (a) a document has been served on an offender for this chapter
- 4 otherwise than by personal service; and
- 5 (b) the registrar is satisfied that—
- 6 (i) the document has not come to the knowledge of the
- 7 offender; or
- 8 (ii) doubt exists whether the document has come to the
- 9 knowledge of the offender.
- 10 (2) The registrar must not take any further action under this chapter in
- 11 relation to the offender unless—
- 12 (a) the document has been served again on the offender in the way
- 13 the registrar considers appropriate; and
- 14 (b) the registrar is satisfied that the document has come to the
- 15 knowledge of the offender.

16 **116G Liability for administrative fee**

17 If any part of a fine payable by an offender remains unpaid after the

18 due date stated in the penalty notice for the fine, the offender is

19 liable to pay to the Territory, in addition to the amount of the fine

20 that remains unpaid, the administrative fee determined under the

21 *Court Procedures Act 2004*, part 3 (Court and tribunal fees).

22 **116H Default notice**

- 23 (1) If an offender defaults in paying a fine, the chief executive must
- 24 send the fine defaulter a default notice.
- 25 (2) However, the chief executive must not send the default notice to the
- 26 fine defaulter until 28 days after the due date for payment of the
- 27 fine.

- 1 **116I Form of default notice**
- 2 (1) A default notice must include the following:
- 3 (a) details about the fine to which the notice relates including the
- 4 following:
- 5 (i) the offence for which the fine was imposed;
- 6 (ii) the date on which the fine was imposed;
- 7 (iii) the amount of the fine imposed;
- 8 (iv) the due date for payment of the fine;
- 9 (v) if the fine was ordered to be paid by instalments—the due
- 10 dates for payment;
- 11 (vi) the outstanding amount of the fine;
- 12 (vii) the administrative fee payable for the fine;
- 13 (viii) the default to which the notice relates;
- 14 (b) a statement that an arrangement for the fine defaulter to pay the
- 15 fine may, on application, be approved by the chief executive
- 16 under section 116K;
- 17 (c) a statement that the chief executive will commence fine
- 18 enforcement action against the defaulter if—
- 19 (i) the fine and administrative fee is not paid in full; and
- 20 (ii) an arrangement is not approved under section 116K for
- 21 the fine or, if an arrangement is approved, the defaulter
- 22 fails to comply with the arrangement;

-
- 1 (d) a list of the following fine enforcement measures that may or
2 must be imposed on the defaulter if the chief executive
3 commences fine enforcement action:
- 4 (i) suspension of the defaulter's driver licence;
- 5 (ii) if the defaulter is the responsible person (or a responsible
6 person) for a vehicle—suspension of the vehicle's
7 registration;
- 8 (iii) notifying a credit reporting agency about the default;
- 9 (iv) an order allowing the outstanding amount of the fine to
10 be deducted from the defaulter's earnings or account with
11 a financial institution or both;
- 12 (v) seizure and sale of the defaulter's property;
- 13 (vi) a voluntary community work order;
- 14 (vii) imprisonment;
- 15 (e) a statement of the obligation of the defaulter to notify the
16 registrar of any change of address under section 116D.
- 17 (2) The chief executive may specify in a default notice particulars about
18 a fine defaulter's property or financial circumstances that must be
19 set out in any application by the defaulter for approval of an
20 arrangement under section 116K.
- 21 *Note* A default notice may be varied under s 116K (Payment arrangements).
- 22 (3) In this section:
- 23 *responsible person*, for a vehicle—see the *Road Transport*
24 *(General) Act 1999*, section 10 and section 11.

1 **116J Reminder notice**

- 2 (1) The chief executive must send a reminder notice to a fine defaulter
3 14 days after sending a default notice to the defaulter if—
- 4 (a) the outstanding fine has not been paid; and
- 5 (b) no arrangement has been approved under section 116K for the
6 fine or, if an arrangement has been approved, the defaulter
7 failed to comply with the arrangement.
- 8 (2) The reminder notice must be sent to the fine defaulter’s last known
9 address.

10 **116K Payment arrangements**

- 11 (1) The chief executive may, on application, approve in writing an
12 arrangement for—
- 13 (a) further time for the payment of all or part of an outstanding
14 fine; or
- 15 (b) payment of all or part of an outstanding fine by instalments.
- 16 (2) An arrangement under subsection (1) may also be made for an
17 amount that is overdue for payment under a previous approved
18 arrangement.
- 19 (3) To the extent to which an approved arrangement is inconsistent with
20 an order about payment of the fine made by the court that imposed
21 it, the arrangement prevails.
- 22 (4) An application for approval of an arrangement must—
- 23 (a) be in writing; and
- 24 (b) state the grounds on which it is made; and
- 25 (c) be given to the chief executive by the due date for payment
26 stated in the current penalty notice or default notice for the
27 fine; and

- 1 (d) for an offender to whom a default notice has been sent—
2 contain any particulars requested by the chief executive in the
3 notice.
- 4 (5) An offender may not make an application under this section in
5 relation to a fine if the offender is subject to a voluntary community
6 work order, or committed to imprisonment, in relation to the fine.
- 7 (6) If an approval of an arrangement concerns a fine for which a penalty
8 notice or default notice has been given to an offender, the chief
9 executive must—
- 10 (a) vary the current penalty notice or default notice in accordance
11 with the approval; and
- 12 (b) give the offender a copy of the notice as varied.

13 **Part 6A.3 Fine enforcement action**

14 **Division 6A.3.1 Reporting fine defaulters**

15 **116L Application—pt 6A.3**

16 This part applies if—

- 17 (a) a default notice and reminder notice have been sent to a fine
18 defaulter in relation to a fine; and
- 19 (b) 28 days after the default notice was sent—
- 20 (i) the outstanding fine has not been paid; and
- 21 (ii) no arrangement has been approved under section 116K
22 for the fine or, if an arrangement has been approved, the
23 defaulter has failed to comply with the arrangement.

- 1 **116M Chief executive to notify road transport authority**
- 2 (1) The chief executive must give written notice to the road transport
- 3 authority with the following information:
- 4 (a) the fine defaulter’s name, home address and date of birth;
- 5 (b) the offence for which the defaulter was convicted;
- 6 (c) the amount of the fine imposed for the offence;
- 7 (d) a statement that the fine and administrative fee for the fine
- 8 have not been paid in full;
- 9 (e) if the defaulter has failed to comply with an arrangement
- 10 approved under section 116K for the fine—a statement to that
- 11 effect.
- 12 (2) The chief executive must give the road transport authority written
- 13 notice if—
- 14 (a) the outstanding fine is paid; or
- 15 (b) the chief executive approves an arrangement under
- 16 section 116K for payment of the outstanding fine; or
- 17 (c) the outstanding fine is remitted under section 116ZO
- 18 (Remission of fine by chief executive) or section 313
- 19 (Remission of penalties); or
- 20 (d) the outstanding fine is discharged because the fine defaulter
- 21 has completed a voluntary community work order under
- 22 division 6A.3.7 or served a period of imprisonment under an
- 23 order under division 6A.3.8; or
- 24 (e) the conviction or order that gave rise to the liability to pay the
- 25 fine is quashed or set aside.

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- 1 **116N Chief executive to notify credit reporting agency**
- 2 (1) The chief executive must give written notice to a credit reporting
- 3 agency with the following information:
- 4 (a) the fine defaulter’s name, home address and date of birth;
- 5 (b) a statement that a fine and administrative fee the defaulter was
- 6 liable to pay have not been paid in full;
- 7 (c) if the defaulter failed to comply with an arrangement approved
- 8 under section 116K for the fine—a statement to that effect;
- 9 (d) that the defaulter was notified by the chief executive that his or
- 10 her personal information would be given to a credit reporting
- 11 agency if he or she failed to pay the fine.
- 12 (2) The chief executive must give the credit reporting agency written
- 13 notice if—
- 14 (a) the outstanding fine is paid; or
- 15 (b) the chief executive approves an arrangement under
- 16 section 116K for the fine; or
- 17 (c) the outstanding fine is remitted under section 116ZO
- 18 (Remission of fine by chief executive) or section 313
- 19 (Remission of penalties); or
- 20 (d) the outstanding fine is discharged because the fine defaulter
- 21 has completed a voluntary community work order or served a
- 22 period of imprisonment under an order under section 116ZK;
- 23 or
- 24 (e) the conviction or order that gave rise to the liability to pay the
- 25 fine is quashed or set aside.

- 1 (3) A credit reporting agency must—
- 2 (a) if the agency receives information about a fine defaulter under
- 3 subsection (1)—include the information in the records used by
- 4 the agency as part of its credit reporting business; and
- 5 (b) if the agency receives information about a fine defaulter under
- 6 subsection (2)—remove any information received about the
- 7 defaulter under subsection (1) from the records used by the
- 8 agency as part of its credit reporting business.
- 9 (4) In this section:
- 10 *credit reporting agency*—see the *Privacy Act 1988* (Cwlth),
- 11 section 6 (1).
- 12 *credit reporting business*—see the *Privacy Act 1988* (Cwlth),
- 13 section 6 (1).

14 **Division 6A.3.2 Examining fine defaulter’s financial**

15 **circumstances**

16 **116O Examination by chief executive**

17 The chief executive may conduct an examination of a fine defaulter

18 under this division to determine—

- 19 (a) the financial position of the defaulter; and
- 20 (b) what fine enforcement action (if any) should be taken against
- 21 the defaulter.

22 **116P Examination notice**

23 (1) The chief executive may serve a notice (an *examination notice*) on

24 a fine defaulter if the chief executive considers that information in

25 documents sought under the notice would assist the chief executive

26 to make a determination under section 116O.

27 *Note* The Legislation Act, pt 19.5, deals with service of documents on

28 individuals and corporations.

- 1 (2) An examination notice may require the fine defaulter to produce to
2 the chief executive, within 14 days after the date of the notice and at
3 a time and place stated in the notice, a document or documents
4 stated in the notice.
- 5 (3) The chief executive may allow the fine defaulter to satisfy the
6 requirement to produce a document by providing oral information
7 about any document required to be produced under the notice.
- 8 (4) An examination notice in relation to a fine must not be served on a
9 fine defaulter if the defaulter would be required to comply with the
10 notice within 6 months after having complied with an earlier
11 examination notice for the same fine.

12 **116Q Examination notice—content**

13 An examination notice may require the fine defaulter to produce a
14 document with any or all of the following:

- 15 (a) details about any account the defaulter has with a financial
16 institution, including the balance of the account;
- 17 (b) details about the defaulter's income;
- 18 (c) details about any cash the defaulter possesses or has access to;
- 19 (d) details about any other property the defaulter owns or has a
20 legal or equitable interest in;
- 21 (e) details about any debts owing to the defaulter;
- 22 (f) the amount of money the defaulter reasonably needs for living
23 expenses;
- 24 (g) whether the defaulter has any dependents and, if so, the amount
25 of money the defaulter needs to provide for them;
- 26 (h) the hardship (if any) that would be caused to the defaulter as a
27 result of paying the fine;

- 1 (i) the hardship (if any) that would be caused to anyone else as a
2 result of the defaulter paying the fine;
- 3 (j) relevant information relating to matters mentioned in this
4 section.

5 **116R Examination warrant—issue**

- 6 (1) If the chief executive believes on reasonable grounds that a fine
7 defaulter served with an examination notice has not complied with
8 the notice, the chief executive may apply to the registrar for a
9 warrant (an *examination warrant*) for the arrest of the defaulter.
- 10 (2) The registrar may refuse to consider the application until the chief
11 executive gives the registrar all the information the registrar requires
12 about the application in the way the registrar requires.
- 13 (3) The registrar may issue an examination warrant for a fine defaulter
14 only if satisfied that the defaulter was served with an examination
15 notice under section 116P and—
- 16 (a) the defaulter, without reasonable excuse, failed to comply with
17 a requirement of the notice; or
- 18 (b) the defaulter—
- 19 (i) provided information that was false or misleading in a
20 material particular; or
- 21 (ii) omitted something without which the information was
22 misleading.
- 23 (4) An examination warrant authorises an enforcement officer to—
- 24 (a) arrest the fine defaulter named or otherwise described in the
25 warrant; and
- 26 (b) bring the defaulter before the registrar.

- 1 **116S Examination warrant—contents and execution**
- 2 (1) An examination warrant must—
- 3 (a) name or otherwise describe the fine defaulter whose
4 apprehension is authorised by the warrant; and
- 5 (b) state briefly the reason for its issue; and
- 6 (c) require an enforcement officer to arrest the defaulter and bring
7 him or her before the registrar to be examined at an
8 examination hearing; and
- 9 (d) be expressed to end not later than 3 months after the day it is
10 issued.
- 11 (2) An enforcement officer executing the warrant—
- 12 (a) may, with necessary assistance and force, enter any premises to
13 arrest the fine defaulter named or otherwise described in the
14 warrant; and
- 15 (b) must use not more than the minimum amount of force
16 necessary to arrest the defaulter and remove him or her to the
17 place stated in the warrant; and
- 18 (c) may ask a police officer to help in the exercise of the
19 enforcement officer’s powers under the warrant; and
- 20 (d) must, before removing the defaulter, explain to him or her the
21 purpose of the warrant; and
- 22 (e) must bring the defaulter immediately before the registrar; and
- 23 (f) if the defaulter is under a legal disability—must tell a parent or
24 guardian of the defaulter about the arrest; and
- 25 (g) must tell the chief executive of the defaulter’s arrest.

- 1 (3) A police officer asked by an enforcement officer to help execute the
2 warrant must give the enforcement officer the reasonable help the
3 enforcement officer requires, if it is practicable to give the help.
- 4 (4) The enforcement officer must immediately release a fine defaulter
5 arrested under an examination warrant if the officer believes on
6 reasonable grounds that the defaulter—
- 7 (a) has, before or after being arrested, complied with the
8 requirements of the examination notice that gave rise to the
9 examination warrant; or
- 10 **Example**
- 11 A defaulter may comply with an examination notice requirement after being
12 arrested if someone else helps the defaulter to comply with the requirement
13 while the defaulter is under arrest.
- 14 *Note* An example is part of the Act, is not exhaustive and may extend,
15 but does not limit, the meaning of the provision in which it
16 appears (see Legislation Act, s 126 and s 132).
- 17 (b) cannot be brought immediately before the registrar.
- 18 (5) An examination warrant continues in force until whichever of the
19 following happens first:
- 20 (a) the warrant is executed;
- 21 (b) the warrant is set aside by the registrar and the enforcement
22 officer is told that the warrant has been set aside;
- 23 (c) the end of 3 months after the day the warrant is issued.
- 24 (6) For subsection (5) (a), a warrant is executed when—
- 25 (a) the fine defaulter has been brought before the registrar and
26 examined under section 116T; or
- 27 (b) the examination is adjourned to another day.

-
- 1 **116T Examination hearing before registrar**
- 2 (1) This section applies if an examination warrant for a fine defaulter
- 3 has been issued and—
- 4 (a) the defaulter has been brought before the registrar on the
- 5 warrant; or
- 6 (b) otherwise attends before the registrar.
- 7 (2) The registrar must—
- 8 (a) set a date for an examination hearing and, by subpoena, require
- 9 the fine defaulter to attend before the registrar, at the time and
- 10 place stated in the subpoena—
- 11 (i) to answer questions and give information; and
- 12 (ii) to produce the documents or other things (if any) stated
- 13 in the subpoena; and
- 14 (b) conduct the examination hearing to determine the financial
- 15 position of the defaulter.
- 16 (3) The registrar may adjourn an examination hearing from time to time
- 17 and may, by order, require the fine defaulter to attend an adjourned
- 18 examination hearing.
- 19 (4) The chief executive is a party to any proceeding conducted under
- 20 this section.
- 21 (5) If the chief executive has been told the date, time and place for the
- 22 examination hearing, or adjourned examination hearing, but does
- 23 not attend before the registrar, the registrar may—
- 24 (a) set aside the order for the examination hearing; or
- 25 (b) conduct the examination in the absence of the chief executive.

- 1 (6) At an examination hearing, the fine defaulter may—
- 2 (a) be examined orally on oath about—
- 3 (i) the assets, liabilities, expenses and income of the
- 4 defaulter; and
- 5 (ii) any other means the defaulter has of satisfying the
- 6 outstanding fine; and
- 7 (iii) the defaulter’s financial circumstances generally; and
- 8 *Note* **Oath** includes affirmation (see Legislation Act, dict, pt 1).
- 9 (b) be required, by order, to produce any document substantiating
- 10 anything relevant to—
- 11 (i) the assets, liabilities, expenses and income of the
- 12 defaulter; and
- 13 (ii) any other means the defaulter has of satisfying the
- 14 outstanding fine; and
- 15 (iii) the defaulter’s financial circumstances generally.
- 16 (7) The examination hearing—
- 17 (a) must be conducted by the registrar; and
- 18 (b) may be conducted in open court or in the absence of the public
- 19 as the registrar directs.
- 20 (8) An examination hearing before the registrar is a legal proceeding for
- 21 the Criminal Code, chapter 7 (Administration of justice offences).
- 22 *Note* The *Magistrates Court Act 1930*, s 307 deals with contempt of the
- 23 Magistrates Court.

1 **116U Examination hearing warrant—issue**

- 2 (1) This section applies if—
- 3 (a) a fine defaulter is required to attend an examination hearing,
4 including an adjourned examination hearing; and
- 5 (b) the defaulter fails to attend the hearing as required by the order.
- 6 (2) The registrar may issue a warrant (an *examination hearing*
7 *warrant*) ordering an enforcement officer to apprehend the fine
8 defaulter and bring the defaulter before the registrar to be examined
9 at the examination hearing if the registrar—
- 10 (a) is satisfied that the defaulter was aware that he or she was
11 required to attend the hearing; and
- 12 (b) considers that the defaulter does not have a reasonable excuse
13 for not attending the hearing.
- 14 (3) The registrar may issue the examination hearing warrant on
15 application by the chief executive or on the registrar’s own
16 initiative.
- 17 (4) A fine defaulter apprehended under an examination hearing warrant
18 must be brought before the registrar to be examined at an
19 examination hearing.

20 **116V Examination hearing warrant—contents and execution**

- 21 (1) An examination hearing warrant must—
- 22 (a) name or otherwise describe the fine defaulter whose
23 apprehension is authorised by the warrant; and
- 24 (b) state briefly the reason for its issue; and
- 25 (c) require an enforcement officer to arrest the defaulter and bring
26 him or her before the registrar to be examined at an
27 examination hearing; and

- 1 (d) be expressed to end not later than 3 months after the day it is
2 issued.
- 3 (2) An enforcement officer executing the warrant—
- 4 (a) may, with necessary assistance and force, enter any premises to
5 arrest the fine defaulter named or otherwise described in the
6 warrant; and
- 7 (b) must use not more than the minimum amount of force
8 necessary to arrest the defaulter and remove him or her to the
9 place stated in the warrant; and
- 10 (c) may ask a police officer to help in the exercise of the
11 enforcement officer's powers under the examination hearing
12 warrant; and
- 13 (d) must, before removing the defaulter, explain to him or her the
14 purpose of the warrant; and
- 15 (e) must bring the defaulter immediately before the registrar; and
- 16 (f) if the defaulter is under a legal disability—must tell a parent or
17 guardian of the defaulter about the arrest; and
- 18 (g) must tell the chief executive of the defaulter's arrest.
- 19 (3) A police officer asked by an enforcement officer to assist in
20 executing the warrant must give the enforcement officer the
21 reasonable help the enforcement officer requires, if it is practicable
22 to give the help.
- 23 (4) An examination hearing warrant continues in force until whichever
24 of the following happens first:
- 25 (a) the warrant is executed;
- 26 (b) the warrant is set aside by the registrar and the enforcement
27 officer is told that the warrant has been set aside;
- 28 (c) the end of 3 months after the date the warrant is issued.

-
- 1 (5) For subsection (4) (a), a warrant is executed when—
- 2 (a) the fine defaulter has been brought before the registrar and
- 3 examined under section 116T; or
- 4 (b) the examination is adjourned to another day.

5 **Division 6A.3.3 Fine enforcement orders—general**

6 **116W Chief executive may apply for fine enforcement order**

- 7 (1) The chief executive may apply to the Magistrates Court for a fine
- 8 enforcement order against a fine defaulter.
- 9 (2) An application by the chief executive under this section must
- 10 include the following:
- 11 (a) a statement setting out the grounds of the application including,
- 12 if the chief executive seeks a particular fine enforcement order,
- 13 the reasons why the chief executive seeks the order;
- 14 (b) an affidavit from the chief executive setting out—
- 15 (i) details of the offence for which the fine forming the basis
- 16 of the application was imposed; and
- 17 (ii) details of the steps taken by the chief executive to tell the
- 18 fine defaulter about the default; and
- 19 (iii) if any oral information about the defaulter’s financial
- 20 circumstances was given to the chief executive under an
- 21 examination notice—the information given;
- 22 (c) if any documents were produced to the chief executive under
- 23 an examination notice—the documents;
- 24 (d) if the defaulter appeared at an examination hearing, the
- 25 following information:
- 26 (i) if the defaulter produced any documents—the
- 27 documents;

- 1 (ii) if the defaulter gave oral evidence—a transcript of the
2 evidence.

3 **116X Magistrates court may make fine enforcement order**

- 4 (1) The Magistrates Court may, on application by the chief executive,
5 make a fine enforcement order against a fine defaulter if the court is
6 satisfied that it is in the interests of justice to make the order.
- 7 (2) A fine enforcement order may contain 1 or more of the following
8 orders:
- 9 (a) an earnings redirection order;
- 10 (b) a financial institution deduction order;
- 11 (c) a property seizure order.
- 12 (3) In deciding whether it is in the interests of justice to make a fine
13 enforcement order against a fine defaulter the court must have
14 regard to information the court has about any of the following:
- 15 (a) the defaulter's income;
- 16 (b) the defaulter's assets;
- 17 (c) the defaulter's equitable interest in property;
- 18 (d) any debts payable to the defaulter;
- 19 (e) any other means the defaulter has of satisfying the outstanding
20 fine;
- 21 (f) the defaulter's reasonable living expenses, including the
22 reasonable living expenses of anyone dependent on the
23 defaulter;
- 24 (g) the hardship a fine enforcement order would cause to the
25 defaulter or any other person affected by the order;

- 1 (h) the need to give effect to the considerations of specific and
2 general deterrence that formed part of the decision of the
3 sentencing court that imposed the fine on the defaulter;
- 4 (i) whether the defaulter has knowingly attempted to misrepresent
5 his or her financial affairs to evade payment of the fine;
- 6 (j) any other relevant matter.
- 7 (4) The court may make a fine enforcement order against a fine
8 defaulter in the absence of, and without notice to, the defaulter.

9 **Division 6A.3.4 Fine enforcement orders—earnings**
10 **redirection orders**

11 **116Y Fine enforcement order—earnings redirection order**

- 12 (1) In this section:
- 13 *earnings*, of a fine defaulter, means any of the following that are
14 owing or accruing to the defaulter:
- 15 (a) wages or salary, including, for example, any allowance, bonus,
16 commission, fee, overtime pay or other amount received under
17 a contract of employment;
- 18 *Note* An example is part of the Act, is not exhaustive and may extend,
19 but does not limit, the meaning of the provision in which it
20 appears (see Legislation Act, s 126 and s 132).
- 21 (b) an amount that, although not payable under a contract of
22 employment, is analogous to or in the nature of wages or
23 salary, including, for example, an amount received under a
24 contract for services;
- 25 (c) any other amount received, or the value of any benefit gained,
26 as compensation for services or profit arising from a contract
27 of employment, contract for services or position;

- 1 (d) a pension, benefit or similar payment;
2 (e) an annuity;
3 (f) an amount payable instead of leave;
4 (g) retirement benefit.

5 **employer**, of a fine defaulter, means a person who, as principal,
6 rather than as employee or agent, pays, or is likely to pay, earnings
7 to the defaulter.

8 (2) The court may make an order (an **earnings redirection order**)
9 directing the employer of a fine defaulter mentioned in the order to
10 deduct an amount from the defaulter's earnings, in the form of a
11 lump sum or instalments, and pay the amount in accordance with the
12 order.

13 (3) For each payday while an earnings redirection order is in force, the
14 employer—

15 (a) must deduct from the defaulter's earnings the amount stated in
16 the order and pay it to the registrar; and

17 (b) may deduct from the defaulter's earnings a reasonable
18 administration charge and keep it as a contribution towards the
19 administrative cost of making payments under the order; and

20 (c) must give the defaulter a notice detailing the deductions.

21 (4) Any charge deducted by an employer under subsection (3) (b) must
22 not be more than—

23 (a) if the employer has an amount the employer usually charges
24 employees for making a periodic payment—that amount; or

25 (b) otherwise—an amount that covers the employer's costs and
26 expenses of complying with the order.

1 (5) An employer commits an offence if, because of an earnings
2 redirection order against a fine defaulter, the employer does any of
3 the following:

4 (a) dismisses the defaulter;

5 (b) changes the defaulter's position to the defaulter's
6 disadvantage;

7 (c) discriminates against the defaulter.

8 Maximum penalty: 20 penalty units.

9 **Division 6A.3.5 Fine enforcement orders—financial**
10 **institution deduction orders**

11 **116Z Financial institution deduction order**

12 (1) This section applies if—

13 (a) a fine defaulter has an account with a financial institution; and

14 (b) the account has, or is likely to have, sufficient funds deposited
15 in it to satisfy all or part of the defaulter's outstanding fine.

16 (2) The court may make an order directing the financial institution to
17 deduct an amount, either as a lump sum or in the form of
18 instalments, from the account of the fine defaulter and pay the
19 amount in accordance with the order.

20 (3) An order under this section must state the following:

21 (a) the name of the fine defaulter to whom the order relates;

22 (b) the name of the financial institution;

23 (c) details of the defaulter's account from which deductions under
24 the order must be made;

25 (d) the amount or amounts to be deducted by the institution.

- 1 (4) For each deduction made from the fine defaulter's account under the
2 order, the financial institution—
- 3 (a) may deduct from the account a reasonable administration
4 charge and keep it as a contribution towards the administrative
5 cost of making payments under the order; and
- 6 (b) must give the defaulter notice detailing the deductions.
- 7 (5) Any charge deducted under subsection (4) (a) must not be more
8 than—
- 9 (a) if the financial institution has an amount it usually charges its
10 customers for making a periodic payment—that amount; or
- 11 (b) otherwise—an amount that covers the financial institution's
12 costs and expenses of complying with the order.
- 13 (6) In this section:
14 *account* includes a joint account.

15 **Division 6A.3.6 Fine enforcement orders—property**
16 **seizure orders**

17 **116ZA Property seizure order**

18 The court may make an order for the seizure of the personal
19 property of a fine defaulter (a *property seizure order*).

20 **116ZB Property seizure order—authority to enter premises etc**

- 21 (1) A property seizure order authorises the chief executive to—
- 22 (a) enter any premises stated in the order, between 7 am and 6 pm
23 on the same day, using the force that is necessary and
24 reasonable to enter the premises if—
- 25 (i) the chief executive has given a person at the premises an
26 opportunity to allow entry and has been refused entry; or

-
- 1 (ii) there is no one at the premises; and
- 2 (b) ask a police officer to help the chief executive enter the
- 3 premises; and
- 4 (c) seize any personal property found on the premises or in a
- 5 public place that—
- 6 (i) apparently belongs, entirely or partly, to the fine
- 7 defaulter; and
- 8 (ii) does not include clothing, bedding or other necessities of
- 9 life; and
- 10 (d) seize and remove any documents that may prove the
- 11 defaulter's title to any personal property; and
- 12 (e) place and keep any seized personal property or documents in
- 13 safe custody for 28 days from the day the property was seized
- 14 before selling the property; and
- 15 (f) sell as much of the defaulter's personal property as necessary
- 16 to satisfy the outstanding fine to which the order relates.
- 17 (2) A police officer asked by the chief executive under
- 18 subsection (1) (b) to help the chief executive enter the premises—
- 19 (a) must give any reasonable help the chief executive requires if it
- 20 is practicable to give the help; and
- 21 (b) may use reasonable force against a person as part of giving the
- 22 help.
- 23 (3) However, this section does not authorise the chief executive to use
- 24 force against a person unless it is reasonable and necessary in the
- 25 interests of a person's safety.

- 1 (4) If the chief executive seizes any property from premises the chief
2 executive must—
- 3 (a) make an inventory of the property seized; and
- 4 (b) in a prominent place on the premises, attach—
- 5 (i) a notice explaining that property has been seized from the
6 premises in accordance with an order of the court under
7 section 116ZA; and
- 8 (ii) a copy of the inventory of property seized; and
- 9 (iii) a notice setting out a person's rights under section 116ZD
10 to recover the property seized.
- 11 (5) As far as possible, the chief executive must seize personal property
12 that the chief executive considers—
- 13 (a) may be sold promptly and without unnecessary expense to
14 satisfy an outstanding fine; and
- 15 (b) if sold will not cause undue hardship to the fine defaulter or
16 other people.

17 **116ZC Property seizure order—sale of seized property**

- 18 (1) Property seized under a property seizure order must be sold by the
19 chief executive and the proceeds of the sale paid to the registrar.
- 20 (2) However, seized property may not be sold unless—
- 21 (a) the holding period for the property has ended; and
- 22 (b) if an application under section 116ZD (1) has been made in
23 relation to the property—the chief executive has decided to
24 refuse to return the property to the applicant; and
- 25 (c) if the chief executive's decision has been appealed under
26 section 116ZD (5)—the appeal has been withdrawn or refused.

-
- 1 (3) As far as possible, the chief executive must sell personal property—
2 (a) in the order that the chief executive considers—
3 (i) is likely to satisfy an outstanding fine promptly and
4 without unnecessary expense; and
5 (ii) minimises undue hardship to the fine defaulter or other
6 people; and
7 (b) at the best price reasonably obtainable, having regard to the
8 circumstances existing when the property is sold.
- 9 (4) The chief executive may retain part of the proceeds from the sale of
10 personal property under this section to cover the chief executive's
11 reasonable costs of the sale.
- 12 (5) If property sold under this section results in proceeds that exceed the
13 outstanding fine for which the property was sold, the excess amount
14 must be given to any person who had a legal or equitable interest in
15 the property in proportion to the share of the person's interest.
- 16 (6) In this section:
17 *holding period* means 28 days after the day the property was seized
18 by the chief executive.

19 **116ZD Property seizure order—restoration application**

- 20 (1) A person may apply to the chief executive in writing for the return
21 of any property seized by the chief executive under a property
22 seizure order.
- 23 (2) An application under subsection (1) must—
24 (a) be made within the holding period under section 116ZC for the
25 property to which it relates; and
26 (b) clearly identify the items of property the applicant seeks to
27 have returned (the *disputed property*); and

- 1 (c) if the applicant is the fine defaulter to whom the seized
2 property relates—state the reasons why a refusal to return the
3 disputed property would cause undue hardship or unfairness to
4 the applicant; and
- 5 (d) if the applicant is not the fine defaulter—state the following:
- 6 (i) the reasons why a refusal to return the disputed property
7 would result in undue hardship or unfairness to the
8 applicant;
- 9 (ii) whether the applicant claims a legal or equitable interest
10 in the disputed property.
- 11 (3) The chief executive must—
- 12 (a) consider an application made under subsection (1); and
13 (b) notify the applicant of the chief executive’s decision.
- 14 (4) In considering whether a refusal to return disputed property to an
15 applicant would result in undue hardship or unfairness to the
16 applicant, the chief executive may take into account the following:
- 17 (a) the relationship between the applicant and any other person
18 likely to be affected by the loss of the disputed property;
- 19 (b) if the property can be easily replaced;
- 20 (c) the value of the property;
- 21 (d) the applicant’s claim over the property;
- 22 (e) if the applicant was aware of, or party to, the commission of an
23 offence for which a fine was imposed and to which the seizure
24 of the property relates;
- 25 (f) any other relevant matter.

1 (5) If the chief executive refuses the application, the applicant may,
2 within 28 days after the decision, apply to the Magistrates Court for
3 an order for the return of the property.

4 *Note* If a form is approved under the *Court Procedures Act 2004* for this
5 provision, the form must be used (see that Act, s 8 (2)).

6 (6) In considering the application, the Magistrates Court may take into
7 account the matters mentioned in subsection (4).

8 **Division 6A.3.7 Voluntary community work orders**

9 **116ZE Voluntary community work order**

10 (1) The chief executive may apply to the Magistrates Court for an order
11 requiring a fine defaulter to perform voluntary community work to
12 discharge an outstanding fine (a *voluntary community work order*).

13 (2) The court may make a voluntary community work order for a fine
14 defaulter if—

15 (a) the fine defaulter agrees to undertake voluntary community
16 work under the order; and

17 (b) if the outstanding fine for which the fine defaulter is liable is or
18 includes an amount payable under a reparation order under the
19 *Crimes (Sentencing) Act 2005*—the entity in whose favour the
20 reparation order was made consents to the reparation order
21 being discharged by a voluntary community work order; and

22 (c) the court is of the opinion that—

23 (i) it would not be appropriate to make a fine enforcement
24 order; and

25 (ii) the fine defaulter is likely to comply with a voluntary
26 community work order; and

27 (d) the fine defaulter has not been convicted of a personal violence
28 offence.

1 (3) The court may inform itself in any way it considers appropriate
2 about a matter mentioned in subsection (2).

3 (4) The order must state the number of hours the fine defaulter must
4 work to discharge the outstanding fine.

5 *Note* The number of hours is to be worked out at the rate of 1 hour for each
6 \$37.50 of the outstanding fine (see s 116ZG).

7 (5) In this section:

8 *personal violence offence*—see section 216A (5).

9 **116ZF Voluntary community work order—administration**

10 (1) A voluntary community work order made for a fine defaulter is to
11 be administered by—

12 (a) the chief executive; or

13 (b) if the chief executive authorises another entity, in writing, to
14 administer the order—the other entity.

15 (2) The entity administering the order must—

16 (a) decide the kind of work to be performed by the defaulter, in
17 accordance with the defaulter’s ability; and

18 (b) decide the hours the defaulter must work (not more than
19 8 hours a day) having regard to the defaulter’s family, work
20 and other commitments; and

21 (c) change the arrangements in accordance with any reasonable
22 request of the defaulter.

23 **116ZG Voluntary community work order—rate of discharge of**
24 **outstanding fine**

25 A fine defaulter performing work under a voluntary community
26 work order discharges the defaulter’s outstanding fine at the rate of
27 \$37.50 for each hour of work performed under the order.

1 **116ZH Voluntary community work order—noncompliance**

- 2 (1) This section applies if—
- 3 (a) the entity administering a voluntary community work order
4 believes on reasonable grounds that the fine defaulter has
5 failed to comply with the order; and
- 6 (b) the defaulter has not asked the entity for an appropriate change
7 in arrangements that would enable the defaulter to comply with
8 the order.
- 9 (2) The entity must report the failure to the court.
- 10 (3) If the court is satisfied that the fine defaulter failed to comply with
11 the order, the court may do 1 or more of the following:
- 12 (a) take no further action;
- 13 (b) give the defaulter a warning about the need to comply with the
14 order;
- 15 (c) amend the order;
- 16 (d) cancel the order.
- 17 (4) If the court amends or cancels the order, the court must give the fine
18 defaulter written notice of the amendment or cancellation.

19 **116ZI Voluntary community work order—certificate of
20 completion**

21 If the entity administering a voluntary community work order is
22 satisfied that the fine defaulter has completed the hours of work
23 required to discharge the outstanding fine, the entity must give the
24 court a certificate of completion in relation to the order.

1 **116ZJ Voluntary community work order—ends if outstanding**
2 **fine paid**

3 If a fine defaulter is subject to a voluntary community work order
4 and an amount is paid to the Territory that completely discharges the
5 outstanding fine, the order ceases to have effect.

6 **Division 6A.3.8 Imprisonment**

7 **116ZK Imprisonment order**

8 (1) The Magistrates Court may, on application by the chief executive,
9 order the imprisonment of a fine defaulter if—

10 (a) the court is satisfied that all appropriate enforcement action has
11 been taken under this chapter to secure payment and there is no
12 real likelihood of the outstanding fine being paid; and

13 (b) the outstanding fine has not been remitted under
14 section 116ZO (Remission of fine by chief executive) or
15 section 313 (Remission of penalties); and

16 (c) if the outstanding fine for which the fine defaulter is liable is or
17 includes an amount payable under a reparation order under the
18 *Crimes (Sentencing) Act 2005*—the entity in whose favour the
19 reparation order was made consents to the reparation order
20 being discharged by imprisonment.

21 *Note* If the court makes an imprisonment order, it must issue a warrant for the
22 imprisonment of the person in the chief executive's custody (see s 12).

23 (2) The order, or any warrant under section 12, must not be given effect
24 if the amount of the outstanding fine is paid to the Territory before
25 the fine defaulter is imprisoned.

-
- 1 (3) The period for which the fine defaulter must be committed (the
2 *imprisonment period*) is the lesser of—
- 3 (a) the period worked out at the rate of 1 day for each \$300, or part
4 of \$300, of the outstanding fine; and
- 5 (b) 6 months.
- 6 (4) However, for a young fine defaulter, the imprisonment period is the
7 lesser of—
- 8 (a) the period worked out at the rate of 1 day for each \$500, or part
9 of \$500, of the outstanding fine; and
- 10 (b) 7 days.

11 **116ZL Imprisonment—periodic detention**

- 12 (1) The court may, in an imprisonment order made under
13 section 116ZK, set all or part of the imprisonment period to be
14 served by periodic detention.
- 15 (2) However, the court must not set a periodic detention period for the
16 fine defaulter unless satisfied that—
- 17 (a) periodic detention is suitable for the defaulter; and
- 18 (b) it is appropriate for the defaulter to serve all or part of the
19 imprisonment period by periodic detention; and
- 20 (c) there are appropriate facilities available at a correctional centre
21 for the defaulter to serve any period of periodic detention set
22 by the court; and
- 23 (d) the offender has signed an undertaking to comply with the
24 defaulter's periodic detention obligations (see section 42).

- 1 (3) In deciding whether periodic detention is suitable for the fine
2 defaulter, the court must consider—
- 3 (a) a report prepared by the chief executive that addresses the
4 matters mentioned in the *Crimes (Sentencing) Act 2005*,
5 table 79 (Assessment of suitability—periodic detention); and
- 6 (b) any evidence given by the person who prepared the report; and
- 7 (c) any medical report about the defaulter.
- 8 (4) Subsection (3) does not limit the matters the court may consider.
- 9 (5) The court must not set a periodic detention period for a young fine
10 defaulter unless the periodic detention is served when the young fine
11 defaulter is an adult.
- 12 (6) When setting a periodic detention period for a fine defaulter, the
13 court must state—
- 14 (a) when the periodic detention period starts and ends; and
- 15 (b) the day the first detention period for the defaulter is to start.
- 16 (7) Chapter 5 (Periodic detention) applies, with any necessary changes
17 and any changes prescribed by regulation, to a fine defaulter for
18 whom the court sets a periodic detention period under this section.

19 **116ZM Imprisonment—rate of discharge of outstanding fine**

- 20 (1) A fine defaulter imprisoned for a period under section 116ZK (3),
21 discharges the outstanding fine—
- 22 (a) if the defaulter is committed for less than 6 months—at the rate
23 of \$300 for each day or part of a day for which the defaulter is
24 imprisoned; or
- 25 (b) if the defaulter is committed for 6 months—at the end of the
26 6-month period.

-
- 1 (2) A fine defaulter imprisoned for a period under section 116ZK (4),
2 discharges the outstanding fine—
- 3 (a) if the defaulter is committed for less than 7 days—at the rate of
4 \$500 for each day or part of a day for which the defaulter is
5 imprisoned; or
- 6 (b) if the defaulter is committed for 7 days—at the end of the
7 7-day period.
- 8 (3) A fine defaulter imprisoned for a periodic detention period
9 discharges the outstanding fine at the rate of \$12.50 for each hour or
10 part of an hour for which the defaulter is in periodic detention.
- 11 (4) However, a young fine defaulter imprisoned for a periodic detention
12 period discharges the outstanding fine at the rate of \$20 for each
13 hour or part of an hour for which the defaulter is in periodic
14 detention.

15 **116ZN Imprisonment—release if outstanding fine paid**

- 16 (1) This section applies if—
- 17 (a) a person is imprisoned under section 116ZK; and
- 18 (b) an amount is paid to the Territory that completely discharges
19 the outstanding fine.
- 20 (2) The chief executive must release the person from imprisonment
21 immediately unless the person must otherwise be lawfully detained.

1 **Part 6A.4** **Miscellaneous**

2 **116ZO Remission of fine by chief executive**

3 (1) The chief executive may, in writing, remit all or part of an
4 outstanding fine that a fine defaulter is liable to pay if the chief
5 executive is satisfied on reasonable grounds that—

6 (a) a fine enforcement order would not be effective to secure
7 payment or is not otherwise appropriate; and

8 (b) a voluntary community work order is not possible or
9 appropriate; and

10 (c) it is appropriate in all the circumstances to remit the fine.

11 (2) In deciding whether to remit a fine, the chief executive—

12 (a) must consider the following:

13 (i) any information the chief executive has about the fine
14 defaulter's financial and personal circumstances;

15 (ii) the offence for which the fine was imposed;

16 (iii) the amount of the fine;

17 (iv) whether the defaulter has any other outstanding fines;

18 (v) anything the defaulter has done to frustrate, render
19 impracticable or evade the making or effect of a fine
20 enforcement order or voluntary community work order;
21 and

22 (b) may consider anything else the chief executive considers on
23 reasonable grounds is relevant.

24 *Note* A fine may also be remitted by the Executive under s 313. Also, this
25 Act does not affect the prerogative of mercy (see s 314A).

1 **116ZP Time served in custody to count**

- 2 (1) If a fine defaulter is imprisoned other than under an order under
3 section 116ZK, the time served is to count toward reducing the
4 amount of any outstanding fines (the *outstanding liability*) for
5 which the defaulter is liable.
- 6 (2) If the defaulter has more than 1 outstanding fine, the defaulter's
7 outstanding liability is the aggregate amount of the defaulter's
8 outstanding fines.
- 9 (3) The defaulter's outstanding liability is reduced at the rate of \$300
10 for each day or part of a day for which the defaulter is imprisoned.
- 11 (4) However, a young fine defaulter's outstanding liability is reduced at
12 the rate of \$500 for each day or part of a day for which the defaulter
13 is imprisoned.

14 **116ZQ Reparation order agreements**

- 15 (1) An entity (other than the Territory) in whose favour a reparation
16 order was made may make an agreement with the chief executive
17 for the reparation order to be enforceable under this chapter as a
18 fine.
- 19 (2) A reparation order agreement must be in writing.
- 20 (3) If a reparation order agreement with an entity is in force, any
21 amount received by the chief executive that is to be applied in
22 payment of a reparation order covered by the agreement must—
- 23 (a) be paid to the entity; or
- 24 (b) otherwise dealt with in accordance with the agreement or any
25 later written direction of the entity.

1 **116ZR Apportionment of fine amounts**

2 Amounts received in payment of an unpaid amount of a fine must be
3 applied towards satisfying the unpaid amount in the following order:

- 4 (a) an amount payable under a reparation order under the *Crimes*
5 *(Sentencing) Act 2005* to a person in relation to whom a
6 reparation order agreement mentioned in section 116ZQ is in
7 force;
- 8 (b) an amount payable under a reparation order under the *Crimes*
9 *(Sentencing) Act 2005* to the Territory;
- 10 (c) a levy imposed under the *Victims of Crime (Financial*
11 *Assistance) Act 1983*;
- 12 (d) a victims services levy imposed under the *Victims of Crime*
13 *Act 1994*;
- 14 (e) a fine payable under a fine order under the *Crimes (Sentencing)*
15 *Act 2005*;
- 16 (f) a financial penalty imposed, other than under the *Crimes*
17 *(Sentencing) Act 2005*, in relation to an offence;
- 18 (g) a fee or charge payable to the Territory that is imposed by a
19 court in a proceeding for an offence;
- 20 (h) costs payable to the Territory under a court order in a
21 proceeding for an offence.

22 **116ZS Conviction or order quashed or set aside**

23 If the conviction or order that gave rise to a person's liability to pay
24 a fine is quashed or set aside, the registrar must, in addition to
25 notifying the road transport authority and relevant credit reporting
26 agency under part 6A.3 refund to the person any amount (including
27 any administrative fee) paid in relation to the fine.

1 **116ZT Sharing information**

2 A person exercising a function under this chapter may give to
3 another person exercising a function under this chapter information
4 the other person needs for the exercise of the other person's
5 functions under this chapter.

6 **Example**

7 registrar giving chief executive details of fine defaulter's address

8 *Note* An example is part of the Act, is not exhaustive and may extend, but
9 does not limit, the meaning of the provision in which it appears (see
10 Legislation Act, s 126 and s 132).

11 **116ZU Orders may be made on conditions**

12 Subject to this chapter, the court may make an order under this
13 chapter on any conditions it considers appropriate.

14 **7 New chapter 19**

15 *insert*

16 **Chapter 19 Transitional—Crimes**
17 **(Sentence Administration)**
18 **Amendment Act 2010**

19 **800 Application of amendments**

20 The amendments made by the *Crimes (Sentence Administration)*
21 *Amendment Act 2010* apply in relation to all court imposed fines,
22 whether imposed before or after the commencement of that Act.

23 **801 Transitional regulations**

24 (1) A regulation may prescribe transitional matters necessary or
25 convenient to be prescribed because of the enactment of the *Crimes*
26 *(Sentence Administration) Amendment Act 2010*.

- 1 (2) A regulation may modify this chapter (including in relation to
2 another territory law) to make provision for anything that, in the
3 Executive's opinion is not, or is not adequately or appropriately,
4 dealt with in this chapter.
- 5 (3) A regulation under subsection (2) has effect despite anything else in
6 this Act or another territory law.

7 **802 Expiry—ch 19**

8 This chapter expires 2 years after the day it commences.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Bail Act 1992**

4 **[1.1] Section 37 (5)**

5 *substitute*

6 (5) If, after the end of 28 days after the day the notice is given, the
7 amount has not been paid the amount may be recovered under the
8 *Crimes (Sentence Administration) Act 2005*, chapter 6A (Court
9 imposed fines) as if it were a fine within the meaning of that
10 chapter.

11 **[1.2] Section 37 (6)**

12 *omit*

13 Subsection (4)

14 *substitute*

15 Subsection (5)

16 **Part 1.2** **Court Procedures Act 2004**

17 **[1.3] Section 12, definition of *relevant legislation*, new**
18 **paragraph (ca)**

19 *insert*

20 (ca) the *Crimes (Sentence Administration) Act 2005*;

1 **Part 1.3 Court Procedures Rules 2006**

2 **[1.4] Division 4.2.4**

3 *omit*

4 **Part 1.4 Crimes (Sentencing) Act 2005**

5 **[1.5] New section 14 (5A)**

6 *after the notes, insert*

- 7 (5A) If the Magistrates Court imposes a fine on an offender for an
8 offence and the summons for the offence was served in accordance
9 with the *Magistrates Court Act 1930*, section 116B (Service of
10 summons for prescribed offence), the court must allow the offender
11 at least 14 days for payment.

12 **[1.6] New section 15A**

13 *insert*

14 **15A Fines—security for payment**

- 15 (1) If a court makes a fine order, the court may, in addition to allowing
16 time for payment of an amount under the order, direct that the
17 offender liable to pay the amount give security, to the satisfaction of
18 the person specified by the court, with or without sureties, for
19 payment of the amount.
- 20 (2) The security must be given, and may be enforced, in the way
21 provided by the *Magistrates Court Act 1930*, part 3.12 (Securities in
22 criminal matters).

23 **[1.7] Section 69, definition of *fine***

24 *substitute*

25 *fine*—see the *Crimes (Sentence Administration) Act 2005*,
26 section 116A.

1 **Part 1.5** **Crimes (Sentencing) Regulation**
2 **2006**

3 **[1.8] New section 3 (e)**

4 *insert*

5 (e) Volunteering ACT, incorporated under the *Associations*
6 *Incorporation Act 1991*, certificate of incorporation
7 number A01640.

8 **Part 1.6** **Magistrates Court Act 1930**

9 **[1.9] Section 116I, new note**

10 *insert*

11 *Note* If the defendant is liable to pay a fine, the notice must contain a penalty
12 notice for the fine (see *Crimes (Sentence Administration) Act 2005*,
13 s 116C (Registrar to send penalty notice)).

14 **[1.10] Section 141 (1), new note 2**

15 *insert*

16 *Note 2* If the defendant is liable to pay a fine, the notice must contain a penalty
17 notice for the fine (see *Crimes (Sentence Administration) Act 2005*,
18 s 116C (Registrar to send penalty notice)).

19 **[1.11] Division 3.9.2**

20 *omit*

- 1 **[1.12] New section 248**
- 2 *in part 3.12, insert*
- 3 **248 Meaning of *security*—pt 3.12**
- 4 In this part:
- 5 *security* means a security under the *Crimes (Sentencing) Act 2005*,
- 6 section 15A (Fines—security for payment).
- 7 **[1.13] Sections 249 to 253**
- 8 *omit*
- 9 under this Act (other than chapter 4 (Civil proceedings))
- 10 **[1.14] Dictionary, definition of *default notice***
- 11 *omit*
- 12 **[1.15] Dictionary, definition of *fine***
- 13 *substitute*
- 14 *fine*, for division 3.9.3 (Reciprocal enforcement of fines against
- 15 bodies corporate)—see section 166A.
- 16 **[1.16] Dictionary, definitions of *fine defaulter*, *government***
- 17 ***agency*, *outstanding fine* and *penalty notice***
- 18 *omit*
- 19 **[1.17] Dictionary, new definition of *security***
- 20 *insert*
- 21 *security*—for part 3.12 (Securities in criminal matters)—see
- 22 section 248.
- 23 **[1.18] Dictionary, definition of *territory entity***
- 24 *omit*
-

1 **Part 1.7** **Road Transport (Driver**
2 **Licensing) Act 1999**

3 **[1.19] Section 37 (1) (d)**

4 *substitute*

5 (d) to a court officer for the recovery of a fine (including
6 proceedings under the *Crimes (Sentence Administration)*
7 *Act 2005*, chapter 6A (Court imposed fines); or

8 **[1.20] Section 37 (3), definition of *fine***

9 *substitute*

10 *fine*—see the *Crimes (Sentence Administration) Act 2005*,
11 section 116A.

12 **Part 1.8** **Road Transport (General) Act**
13 **1999**

14 **[1.21] Section 84**

15 *omit*

16 *Magistrates Court Act 1930*, section 153 (1)

17 *substitute*

18 *Crimes (Sentence Administration) Act 2005*, section 116N (1)

19 **[1.22] Section 86 (1) (a)**

20 *omit*

21 *Magistrates Court Act 1930*, section 153 (2)

22 *substitute*

23 *Crimes (Sentence Administration) Act 2005*, section 116N (2)

- 1 **[1.23] Section 86 (1) (b)**
2 *omit*
3 *Magistrates Court Act 1930*, section 153 (3)
4 *substitute*
5 *Crimes (Sentence Administration) Act 2005*, section 116N (3)

6 **Part 1.9 Supreme Court Act 1933**

- 7 **[1.24] Section 49A**
8 *omit*

9 **Part 1.10 Victims of Crime Act 1994**

- 10 **[1.25] Section 24 (2), note**
11 *substitute*
12 *Note* The victims services levy is recoverable under the *Crimes (Sentence*
13 *Administration) Act 2005*, ch 6A (Court imposed fines).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

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