

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Caroline Le Couteur)

Magistrates Court (Infringement Notices) Amendment Bill 2019

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Magistrates Court (Infringement Notices) Amendment Bill 2019

A Bill for

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:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Magistrates Court (Infringement Notices) Amendment*
4 *Act 2019*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Legislation amended**

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

1 Part 2 Magistrates Court Act 1930

2 4 Definitions for pt 3.8 3 Section 117, new definitions

4 *insert*

5 *approved community work or social development program* means a
6 community work or social development program approved under
7 section 131AD.

8 infringement notice management plan—see section 131AA.

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

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

19 *responsible director-general* means the director-general for the
20 *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good
21 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 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; and

8 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.

1 **9 Extension of time to pay penalty**
2 **Section 124 (1)**

3 *substitute*

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

18 **10 New section 124A**

19 *insert*

20 **124A Extension of time—guidelines**

- 21 (1) The Minister may issue guidelines for deciding applications for
22 extensions of time, including applications made after the time for
23 doing something mentioned in section 124 (1).
- 24 (2) The administering authority for an infringement notice offence must
25 comply with any guidelines for deciding an application for an
26 extension of time.

1 (3) A guideline is a disallowable instrument.

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

4 **11 Guidelines about withdrawal of infringement notices**
5 **Section 128 (1)**

6 *substitute*

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

11 **12 New divisions 3.8.2A and 3.8.2B**

12 *insert*

13 **Division 3.8.2A Infringement notice management**
14 **plans**

15 **131AA Application for infringement notice management plan or**
16 **addition to plan**

17 (1) This section applies if a person is served with an infringement notice
18 or reminder notice for an infringement notice offence.

19 (2) If the person is an individual, the individual may apply to the
20 administering authority—

21 (a) to enter into an arrangement (an *infringement notice*
22 *management plan*) with the authority for discharge of the
23 penalty for the offence by—

24 (i) payment by instalment; or

25 (ii) participating in an approved community work or social
26 development program; or

- 1 (b) if the individual has an infringement notice management plan—
2 to add the infringement notice penalty for the offence to the
3 individual’s plan.
- 4 (3) If the person is a corporation, the corporation may apply to the
5 administering authority—
- 6 (a) to enter into an arrangement (also an *infringement notice*
7 *management plan*) with the authority for discharge of the
8 penalty for the offence by payment by instalment; or
- 9 (b) if the corporation has an infringement notice management
10 plan—to add the infringement notice penalty for the offence to
11 the corporation’s plan.
- 12 (4) The application must include—
- 13 (a) information about the person’s financial circumstances; and
- 14 (b) if the person is the holder of a card prescribed by regulation that
15 is current—that information; and
- 16 (c) if the application is to participate in an approved community
17 work or social development program—information about any
18 relevant circumstances of the person; and
- 19 (d) anything else prescribed by regulation.

20 **131AB Application for infringement notice management plan or**
21 **addition to plan—decision**

- 22 (1) On application by a person under section 131AA, the administering
23 authority must—
- 24 (a) allow the application; or
- 25 (b) refuse the application.
- 26 (2) The administering authority may, in writing, ask the applicant or a
27 person mentioned in the application for more information to assist the
28 authority to make a decision under this section.

- 1 (3) If the person is applying for an infringement notice management plan
2 that allows payment by instalments, the administering authority—
- 3 (a) must allow the application if the person is the holder of a card
4 mentioned in section 131AA (4) (b); and
- 5 (b) in any other case—may allow the application if satisfied on
6 reasonable grounds that it is justified because of the person’s
7 financial circumstances.
- 8 (4) If the person is applying for an infringement notice management plan
9 that allows participation in an approved community work or social
10 development program, the administering authority must allow the
11 application if the responsible director-general agrees to the person
12 participating in an approved community work or social development
13 program under section 131AC.
- 14 (5) If the administering authority allows an application for an
15 infringement notice management plan that allows payment by
16 instalments, the authority may decide the amount of the instalments
17 that must be paid.
- 18 (6) The administering authority must—
- 19 (a) if the application is allowed—tell the person, in writing—
- 20 (i) about the arrangements for entering into the infringement
21 notice management plan or that the penalty has been added
22 to the person’s infringement notice management plan; and
- 23 (ii) if the person is paying instalments under the plan—that the
24 authority may decide the amount of the instalments that
25 must be paid; or
- 26 (b) if the application is refused—tell the person in writing about the
27 refusal and the reasons for the refusal.

- 1 (7) A regulation may make provision in relation to the following:
- 2 (a) any conditions applying to allowing an application under
- 3 section 131AA;
- 4 (b) conditions applying to infringement notice management plans,
- 5 including the minimum amount that may be paid as an
- 6 instalment under a plan;
- 7 (c) the payment of amounts under an infringement notice
- 8 management plan, including the consequences of a payment not
- 9 being honoured;
- 10 (d) variation or suspension of a person's infringement notice
- 11 management plan at the person's request;
- 12 (e) the arrangements for participating in an approved community
- 13 work or social development program, including when
- 14 participation in an approved community work or social
- 15 development program is taken to be finished and evidence of
- 16 participation.

17 **131AC Approved community work or social development**

18 **program—responsible director-general's agreement**

- 19 (1) On receiving an application for an infringement notice management
- 20 plan that allows a person to participate in an approved community
- 21 work or social development program, the administering authority
- 22 must ask the responsible director-general if the director-general
- 23 agrees to the applicant participating in an approved community work
- 24 or social development program.
- 25 (2) The responsible director-general must—
- 26 (a) agree to the applicant participating in an approved community
- 27 work or social development program; or
- 28 (b) refuse to agree.

- 1 (3) The responsible director-general may, in writing, ask the applicant or
2 a person mentioned in the application for more information to assist
3 the director-general to make a decision under this section.
- 4 (4) The responsible director-general may agree to the applicant's
5 participation in an approved community work or social development
6 program if satisfied on reasonable grounds that—
- 7 (a) it is justified because of either or both of the following:
- 8 (i) the financial circumstances of the applicant;
- 9 (ii) any relevant circumstances of the applicant; and
- 10 (b) the applicant is suitable to participate in the program.
- 11 (5) The responsible director-general may make guidelines about the
12 exercise of the director-general's functions under subsection (4).
- 13 (6) A guideline is a notifiable instrument.

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

15 **131AD Approval of community work or social development**
16 **program**

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

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

1 **Division 3.8.2B Waiver of infringement notice**
2 **penalties**

3 **131AE Application for waiver of penalty**

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

12 **131AF Application for waiver of penalty—decision**

- 13 (1) On application by a person under section 131AE, the administering
14 authority must—
- 15 (a) allow the application; or
16 (b) refuse the application.
- 17 (2) The administering authority may, in writing, ask the applicant or a
18 person mentioned in the application for more information to assist the
19 authority to make a decision under this section.
- 20 (3) The administering authority must allow the application if satisfied on
21 reasonable grounds that—
- 22 (a) the applicant does not have, and is unlikely to have, the financial
23 ability to pay the infringement notice penalty; and
24 (b) relevant circumstances exist in relation to the applicant; and
25 (c) enforcement action has not resulted in, or is unlikely to result in,
26 the payment of the infringement notice penalty; and

- 1 (d) the applicant is not a suitable person to discharge the penalty by
2 completing an approved community work or social development
3 program; and
- 4 (e) allowing the application is consistent with any guidelines made
5 under section 131AG.
- 6 (4) For subsection (3) (d), the administering authority may consult with
7 the responsible director-general.
- 8 (5) The administering authority must—
- 9 (a) if the application is allowed—tell the person in writing about the
10 waiver of the infringement notice penalty; and
- 11 (b) if the application is refused—tell the person in writing about the
12 refusal and the reasons for the refusal.

13 **131AG Guidelines for waiver of penalty**

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

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

21 **13 Extension of time to dispute liability**
22 **Section 133**

23 *omit*

- 1 **14 Dictionary, new definitions**
- 2 *insert*
- 3 *approved community work or social development program*, for
- 4 part 3.8 (Infringement notices for certain offences)—see section 117.
- 5 *infringement notice management plan*, for part 3.8 (Infringement
- 6 notices for certain offences)—see section 131AA.
- 7 *relevant circumstances*, of a person, for part 3.8 (Infringement
- 8 notices for certain offences)—see section 117.
- 9 *responsible director-general*, for part 3.8 (Infringement notices for
- 10 certain offences)—see section 117.

1 **Part 3** **Magistrates Court**
2 **Regulation 2009**

3 **15** **New section 3A**

4 *insert*

5 **3A** **Application for infringement notice management plan or**
6 **addition to plan—contents—Act, s 131AA (4) (b)**

7 (1) The following cards are prescribed:

- 8 (a) a health care card issued under the *Social Security Act 1991*
9 (Cwlth);
- 10 (b) a pensioner concession card issued under the *Social Security Act*
11 *1991* (Cwlth);
- 12 (c) a pensioner concession card issued in relation to a pension under
13 the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military*
14 *Rehabilitation and Compensation Act 2004* (Cwlth);
- 15 (d) a gold card.

16 (2) In this section:

17 **gold card** means a card known as the Repatriation Health Card—For
18 All Conditions that evidences a person's eligibility, under the
19 *Veterans' Entitlements Act 1986* (Cwlth) or the *Military*
20 *Rehabilitation and Compensation Act 2004* (Cwlth), to be provided
21 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 2019.

3 Republications of amended laws

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

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