

2005

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

EXPLANATORY STATEMENT

MAGISTRATES COURT (CONSTRUCTION OCCUPATIONS INFRINGEMENT NOTICES) AMENDMENT REGULATION 2005 (NO 1)

Subordinate Law SL2005-12

Circulated by authority of
Katy Gallagher MLA
Acting Attorney General

BACKGROUND AND OUTLINE

The Magistrates Court (Construction Occupations Infringement Notices) Amendment Regulation 2005 (No 1) (the Amendment Regulation) amends the Magistrates Court (Construction Occupations Infringement Notices) Regulation 2004 (Principal Regulation) which makes provisions for the issue of infringement notices for certain offences under the *Construction Occupations (Licensing) Act 2004*. This Act regulates the construction occupations of builder, building surveyor, drainer, electrician, gasfitter, plumber, and plumbing plan certifier.

The Amendment Regulation will make the following changes to the Principal Regulation:

- It removes the requirement for an authorised person to indicate on the infringement notice the position held by that person as it appears on the person's identity card. This amendment will make construction occupation infringement notice provisions consistent with other comparable infringement notice provisions;
- It authorises inspectors to issue infringement notices, and defines 'inspector'; and
- It enables an infringement notice to be issued to an offence under section 83 of the Construction Occupations (Licensing) Act of advertising certain construction occupation services without disclosing one's name, licence number and where applicable, ACN.

CLAUSE NOTES

Clause 1 provides for the name of the regulation to be the Magistrates Court (Construction Occupations Infringement Notices) Amendment Regulation 2005 (No 1).

Clause 2 provides that the regulation commences on the day after the notification day.

Clause 3 provides that the regulation amends the Magistrates Court (Construction Occupations Infringement Notices) Regulation 2004.

Clause 4 substitutes sections 10 and 11 of the Principal Regulation with new provisions and inserts new section 12.

Section 10

New section 10 requires an authorised person issuing an infringement notice to identify himself or herself by the person's full name, or surname and initials; or any unique number given to him or her by the administering authority. It removes the current requirement for an authorised person to provide information about his or her position.

Section 11

New section 11 relates to the issuing of a reminder notice for an infringement notice offence and provides for similar requirements as in new section 10 for

identifying an authorised person. The current requirement for an authorised person to provide information about his or her position is removed.

Section 12 provides that an inspector is an authorised person for the purpose of issuing infringement notices for infringement notice offences under the construction occupation legislation.

It defines ‘inspector’ as:

- (a) a building inspector under the *Building Act 2004*; or
- (b) a compliance auditor under the *Construction Occupations (Licensing) Act 2004*; or
- (c) an inspector under the *Electricity Safety Act 1971*; or
- (d) an inspector under the *Gas Safety Act 2000*; or
- (e) a technical inspector under the *Utilities Act 2000*; or
- (f) an inspector under the *Water and Sewerage Act 2000*.

The note under section 12 clarifies the functions of a deputy registrar.

Clause 5 substitutes Schedule 1 to the Principal Regulation. The new Schedule 1 lists infringement notice offences against the *Construction Occupations (Licensing) Act 2004*. The offence under section 83 of the Act of advertising without disclosing specified details is added as an infringement notice offence. Current infringement notice offences against sections 83 and 84 of the Act will continue. The penalties for the infringement notice offences are the amount mentioned in column 4 of the table in the schedule for an individual or five times that amount for a corporation.