

2010

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (LAKES INFRINGEMENT NOTICES)
AMENDMENT REGULATION 2010 (No 1)

SL2010-30

EXPLANATORY STATEMENT

Circulated with the authority of
Simon Corbell MLA
Attorney General

Magistrates Court (Lakes Infringement Notices) Amendment Regulation 2010 (No 1)

Outline

The *Lakes Act 1976* (the Lakes Act) provides for the administration, control and use of certain lakes in the Territory, and includes a number of offences mainly relating to activities in and around lakes.

Part 3.8 of the *Magistrates Court Act 1930* provides that offences prescribed under a regulation made under that Act can be dealt with by way of an infringement notice.

The infringement notice system is intended to provide an alternative to prosecution where it is deemed that an infringement notice imposing a monetary fine will be sufficient rather than taking the matter before the courts. Under the *Magistrates Court Act 1930* a person authorised to issue an infringement notice for an offence has discretion to decide whether or not to issue a notice.

Currently the *Magistrates Court (Lakes Infringement Notices) Regulation 2004* contains two infringement notice offences and penalties. This Regulation seeks to expand the number of offences under the Lakes Act for which an infringement notice may be issued by including another seventeen infringement notice offences and penalties in the *Magistrates Court (Lakes Infringement Notices) Regulation 2004*. This amendment also provides for revised infringement penalties for the existing two offences to ensure a standard infringement penalty amount for all offence provisions.

Regulation Notes

Clause 1 – Name of regulation – provides that the regulation is the Magistrates Court (Lakes Infringement Notices) Amendment Regulation 2010 (No 1).

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

Clause 3 – Legislation amended – provides that this regulation amends the *Magistrates Court (Lakes Infringement Notices) Regulation 2004*.

Clause 4 – Schedule 1, table – provides for the inclusion of the new infringement notice offences and penalties as well as the previous offences and their revised penalties.

Although the Government has adopted a general legal policy that the maximum infringement notice penalty amounts are to represent 20% of the respective maximum penalty provided for the offence for an individual, the department has set the fine for the offences listed in Schedule 1 at 10% of the respective maximum penalties.

As can be seen from Column 4 of Schedule 1, the infringement penalties for the included offences in the Lakes Act range from \$55 to \$550 for an individual. The department considers that setting the infringement penalties between this range represents an adequate deterrence to members of the public against the commission of the offences contained in the Schedule.