

2014

**MAGISTRATES COURT (ANIMAL WELFARE INFRINGEMENT NOTICES)
REGULATION 2014**

SUBORDINATE LAW SL2014-3

EXPLANATORY STATEMENT

**Circulated by authority of
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Magistrates Court (Animal Welfare Infringement Notices) Regulation 2014

Overview

The *Magistrates Court (Animal Welfare Infringement Notices) Regulation 2014* is being made under part 3.8 of the *Magistrates Court Act 1930* and will enable infringement notices to be issued for offences against the *Animal Welfare Act 1992*. Infringement notices are intended to provide an alternative to prosecution.

This regulation enables inspectors under section 76 and authorised officers appointed under section 77 of the *Animal Welfare Act 1992* to issue infringement notices and reminder notices. Under the *Magistrates Court Act* a person authorised to issue an infringement notice for an offence has the discretion to decide whether or not to issue a notice.

Summary of clauses

Clause 1 Name of regulation

This clause provides that the name of the regulation is the *Magistrates Court (Animal Welfare Infringement Notices) Regulation 2014*.

Clause 2 Commencement

This clause provides for the commencement of the regulation. Schedule 1, items 2 to 4, commence on the commencement of the *Animal Welfare (Factory Farming) Amendment Act 2014* or the day after the regulation's notification day, whichever occurs later. The rest of the regulation commences on the day after its notification day.

Clause 3 Dictionary

This clause provides that the dictionary at the end of the regulation is part of the regulation. The dictionary defines certain terms used in the regulation.

A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, sections 155 and 156 (1)).

Clause 4 Notes

This clause provides that a note included in the regulation is, in law, purely explanatory and is not part of the regulation. See *Legislation Act*, sections 127 (1), (4) and (5) for the legal status of notes.

Clause 5 Purpose of regulation

This clause provides that the purpose of the regulation is to provide for infringement notices under the *Magistrates Court Act*, part 3.8, for certain offences against the *Animal Welfare Act*.

Clause 6 Administering authority

This clause provides that the administering authority for an infringement notice offence under the regulation is the Animal Welfare Authority. The Animal Welfare Authority is established by section 5 of the Animal Welfare Act.

Clause 7 Infringement notice offences

This clause provides that the Magistrates Court Act, part 3.8, applies to an offence against a provision of the Animal Welfare Act mentioned in the regulation in schedule 1, column 2.

Clause 8 Infringement notice penalties

This clause provides for the penalty that is payable by an individual with an infringement notice. The penalty payable by an individual for each infringement notice is set in column 4 of schedule 1, while the penalty payable by a corporation is 5 times the amount mentioned in schedule 1, column 4.

This clause also prescribes that the cost of service of a reminder notice for an infringement notice offence is \$34.

Clause 9 Contents of infringement notices—identifying authorised person

This clause provides that an infringement notice must identify the authorised person who served the notice by the authorised person's full name or surname and initials or any unique number given to the authorised person by the administering authority.

Clause 10 Contents of infringement notices—other information

This clause provides that an infringement notice served on a company must include the company's ACN.

Clause 11 Contents of reminder notices—identifying authorised person

This clause provides that a reminder notice for an infringement notice offence must identify the authorised person by the authorised person's full name or surname and initials or any unique number given to the authorised person by the administering authority.

Clause 12 Authorised people for infringement notice offences

This clause provides that an inspector under section 76 and an authorised officer appointed under section 77 of the Animal Welfare Act may serve infringement notices and reminder notices for infringement notice offences against the Animal Welfare Act.

Schedule 1 Animal Welfare Act 1992 infringement notice offences and penalties

The schedule lists the infringement notice offences and penalties under the Animal Welfare Act that are prescribed by sections 7 and 8 of the regulation.

The offences that are proposed to be dealt with by way of an infringement notice under the regulation are relatively minor in nature, and have infringement notice penalties ranging from \$28 to \$1,400 (for an individual) or \$140 to \$7,000 (for a corporation). Most penalty values have been set so that the nominal amount on an infringement notice is 20% of the maximum fine stipulated in the offence. The penalty value for an offence against section 24B (1) of the Animal Welfare Act (item 12 of column 1) has been set at 5% of the maximum fine.