

Magistrates Court (Major Events Infringement Notices) Regulation 2014

Subordinate law SL2014–30

made under the

Magistrates Court Act 1930, part 3.8 (Infringement notices for certain offences)

EXPLANATORY STATEMENT

Overview

Part 3.8 of the *Magistrates Court Act 1930* provides for the issuing of infringement notices for offences listed in regulations. The *Magistrates Court (Major Events Infringement Notices) Regulation 2014* (the regulation) allows notices to be issued for certain offences against the *Major Events Act 2014* (ME Act).

The notice requirements under the ME Act are aimed at giving advance notice to major event and important sporting event attendees about the conditions of entry to relevant events.

The regulation allows infringement notices to be issued for the following offences; unauthorised entry to an event venue, possess prohibited item, fail to permit search of personal property, fail to permit scanning search, fail to permit search by police officer, failure to state name and/or address when asked, fail to comply with a direction under s22 of the Act, contravene direction under section 22(1)(a) of the Act, contravene conditions of ban order or interfere with seized thing.

It is ACT Government policy that infringement notice offences should generally be strict liability as these offences lend themselves to an infringement notice scheme.

Four offences listed in schedule 1 are not strict liability offences (see items 1, 8, 9 and 10 of sch 1). Where these offences are alleged to have been committed, it is possible for a police officer to make a clear and objective judgment about whether the offence has been committed. While these offences include fault elements, they do not include complex legal distinctions.

There are two important safeguards in relation to the use of the non-strict liability offences in the regulation. First, clause 8 provides that an authorised person is taken not to have reasonable grounds for believing that a person committed an infringement notice offence unless the authorised person witnessed the person committing the offence.

Furthermore a person issued with an infringement notice for one of these offence provisions can dispute liability for the offence and the onus is on the police officer who served the infringement notice and prosecuting agency to proceed with the prosecution through the normal court process.

The offence at s 13(2) of the Act targets what is commonly known as ‘pitch invasion’ and has an infringement penalty of \$1500. The significant penalty amount is justified in light of the need to deter people from undertaking such behaviour due to the negative impact pitch invasion can have on major events. In the event of an offence occurring, there may be significant financial, legal and reputational implications for the ACT. A pitch invasion offence could also detrimentally affect the ACT’s ability to host future major events.

The offence at s 24(7) of the Act, contravention of a ban order, also has an infringement penalty of \$1500. This amount is justified as the person is on notice that they are banned from an event and contravenes the ban by entering an event venue.

The ability to issue an infringement notices for offences against the Act will allow police officers to take immediate action against people who breach these provisions at a major event. Immediate action is often required at major events to ensure the safety of other members of the public attending the event. The intention is to apply an immediate consequence to alleged offenders and deter further offending.

Clause notes

Clause 1 Name of regulation

This clause sets out the name of the regulation.

Clause 2 Commencement

This clause provides that the regulation commences the day after it is notified.

Clause 3 Dictionary

This clause explains that the dictionary is part of the regulation.

Clause 4 Notes

This clause explains that notes are explanatory only and do not form part of the regulation.

Clause 5 Purpose of regulation

This clause explains the purpose of the regulation which is to provide an infringement notice scheme for certain offences under the *Major Events Act 2014*.

Clause 6 Administering authority

This clause provides that the administering authority for the infringement notice scheme is the chief police officer.

Clause 7 Service of infringement notices – belief about age of individual

This clause provide that for an authorised person to have reasonable grounds for believing that an individual is a particular age they must see evidence of the individual’s identity and age.

Note 1 provides that the infringement notice offences in schedule 1 do not apply to individuals under the age of 16.

Clause 8 Service of infringement notices – witnessing conduct

This clause provides that, for an authorised person to have reasonable grounds for believing that a person has committed an infringement notice offence, they must see the person committing the offence.

The intention of this clause is to support the integrity of the infringement notice scheme for offences in the Major Events Act. The requirement of the authorised officer to witness the offence will result in fewer people disputing liability for infringement notice offences. Where an authorised person is confronted with conflicting accounts of an alleged offence, and the offence warrants the commencement of criminal proceedings, it is more appropriate that the court resolve the question of a person’s guilt or innocence.

Clause 9 Infringement notice offences

This clause provides that infringement notices can be issued for offences listed in schedule 1, column 2. An exception is provided if the individual believed to have committed the offence is under 16 years old.

Clause 10 Infringement notice penalties

This clause provides that the penalty payable for an individual offence against the Major Events Act mentioned in schedule 1, column 2, is the amount mention in column 4 of schedule 1.

The clause also provides that the cost for the issue of a reminder notice for an infringement notice offence is \$34.

Clause 11 Contents of infringement notices – identifying authorised person

This clause provides that an infringement notice must identify the authorised person who served the notice by way of the police officer’s service number.

Clause 12 Contents of reminder notices – identifying authorised person

This clause provides that a reminder notice for an infringement notice must identify the authorised person who served the notice by way of the police officer’s service number.

Clause 13 Authorised people for infringement notice offences

This clause provides that a police officer may serve an infringement notice for an infringement notice offence or a reminder notice for an infringement notice offence against the Major Events Act.

Schedule 1

This schedule lists the infringement notices offences and penalties for clauses 9 and 10.