

# Magistrates Court (Nature Conservation Infringement Notices) Regulation 2015

Subordinate law SL2015–20

made under the

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

## EXPLANATORY STATEMENT

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### Magistrates Court (Nature Conservation Infringement Notices) Regulation 2015

#### Overview

The *Magistrates Court (Nature Conservation Infringement Notices) Regulation 2015* is being made under part 3.8 of the *Magistrates Court Act 1930* and will allow infringement notices to be issued for offences against the *Nature Conservation Act 2014*. Infringement notices are intended to provide an alternative to prosecution.

This regulation empowers the conservator of flora and fauna appointed under section 20 and conservation officers appointed under section 28 of the *Nature Conservation Act* 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 (Nature Conservation Infringement Notices) Regulation 2015*.

##### Clause 2 Commencement

This clause provides for the commencement of the regulation. The regulation commences on the later of the day after its notification day, and the commencement of the *Nature Conservation Act*, section 3.

##### 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*, ss 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, s 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 Nature Conservation Act.

#### **Clause 6 Administering authority**

This clause provides that the administering authority for an infringement notice offence under the regulation is the conservator of flora and fauna.

#### **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 Nature Conservation 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 a conservation officer appointed under section 28 of the Nature Conservation Act may serve infringement notices and reminder notices for infringement notice offences against the Nature Conservation Act. Section 28(2) of the Nature Conservation Act provides that the conservator of flora and fauna is a conservation officer.

### **Schedule 1 Nature Conservation Act 2014 infringement notice offences and penalties**

The schedule lists the infringement notice offences and penalties under the Nature Conservation 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 \$30 to \$1,500 (for an individual) or \$150 to \$7,500 (for a corporation). All penalty values have been set so that the nominal amount on an infringement notice is 20% of the maximum fine stipulated in the offence.