

Australian Capital Territory

Magistrates Court (Lakes Infringement Notices) Amendment Regulation 2019 (No 1)

Subordinate law SL2019–7

made under the

***Magistrates Court Act 1930*, section 321 (Regulation-making power)**

EXPLANATORY STATEMENT

Outline

The *Lakes Act 1976* (the Lakes Act) provides for the administration, control and use of certain lakes in the Territory, and includes several 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 to issue a notice.

Currently the *Magistrates Court (Lakes Infringement Notices) Regulation 2004* contains eighteen (18) infringement notice offences and penalties for offences under the Lakes Act. This Regulation seeks to amend the *Magistrates Court (Lakes Infringement Notices) Regulation 2004* to include twenty-three (23) offences and penalties under the *Lakes Regulation 2019* for which an infringement notice may be issued.

Regulation Notes

Clause 1 – Name of regulation – provides that the regulation is the *Magistrates Court (Lakes Infringement Notices) Amendment Regulation 2019 (No 1)*.

Clause 2 – Commencement – provides that the regulation commences on the commencement of section 3 of the *Lakes Regulation 2019*.

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

Clause 4 – New section 2 – inserts a formal provision stating that the dictionary at the end of the regulation is part of the regulation. Clause 10 inserts a new dictionary into the regulation.

Clause 5 – Sections 3 and 5 to 10 – amends sections 3 and 5 to 10 of the regulation to replace the reference to *Lakes Act 1976* with the term ‘lakes legislation’. Clause 10 inserts the definition of ‘lakes legislation’. This amendment includes amending the purpose of the regulation to provide that the infringement notices within the regulation are for offences under both the *Lakes Act 1976* and the *Lakes Regulation 2019*.

Clause 6 – Section 11 – amends section 11 of the regulation to remove the signpost reference to *Lakes Act 1976*, section 7 (Inspectors). Clause 10 inserts a signpost reference for the definition of ‘inspector’.

Clause 7 – Section 11 (a) and (b) – amends section 11 of the regulation to replace the reference to *Lakes Act 1976* with the term ‘lakes legislation’.

Clause 8 – Schedule 1 heading – amends the heading of the schedule to replace the reference to *Lakes Act 1976* with the term ‘lakes legislation’ and inserts a sub heading for the current table in the schedule.

Clause 9 – Schedule 1, new part 1.2 – provides for the inclusion of the new infringement notice offences and penalties for offences under the *Lakes Regulation 2019*.

The infringement notice penalties for the offences listed in Schedule 1, part 1.2, have been set at approximately 10% of the respective maximum penalties. This broadly aligns with fines for boating offences in New South Wales.

As can be seen from Column 4 of Schedule 1, part 1.2 the infringement penalties for the included offences in the *Lakes Regulation 2019* range from \$300 to \$500 for an individual. It is considered 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 part 1.2 of the Schedule.

Clause 10 – New dictionary – inserts a dictionary into the regulation.