

State Penalties Enforcement Amendment Bill 2017

Amendments during consideration in detail to be moved by
The Honourable the Treasurer and Minister for Trade and Investment

1 **Clause 11 (Insertion of new s 14A)**

Page 13, lines 2 to 6—

omit, insert—

- (1) This section applies if, in relation to an infringement notice for an infringement notice offence involving a vehicle, an administering authority reasonably incurs a cost in establishing ownership of the vehicle (a *verification cost*).

2 **Clause 12 (Amendment of s 15 (Infringement notices))**

Page 13, lines 10 to 13—

omit, insert—

- (1) Section 15(2)(f) and (g)—

omit, insert—

- (f) the ways the alleged offender may respond to the notice under section 22;
- (g) that the notice may be withdrawn at any time before the fine is satisfied in full;

3 **Clause 46 (Amendment of s 102 (Financial institution to make payments))**

Page 60, lines 2 to 14—

omit, insert—

46 Replacement of s 102 (Financial institution to make payments)

Section 102—

omit, insert—

102 Financial institution to make payments

- (1) For each regular deposit into the enforcement debtor's account while the fine collection notice for regular redirection is in force, the financial institution—
 - (a) within 2 days after the deposit, must deduct from the account the amount stated in the notice and pay it to SPER as stated in the notice; and
 - (b) may only charge the enforcement debtor an amount (an *administration charge*), as an administrative cost of complying with the notice, of not more than the amount prescribed by regulation; and
 - (c) must give the enforcement debtor notice of the deduction and any administration charge.
- (2) However, the financial institution must not deduct an amount from the account if—
 - (a) the deduction would cause the account to be overdrawn; or
 - (b) the deduction would cause the total balance of all the accounts the enforcement debtor holds with the financial institution to be less than the amount prescribed by regulation (the *protected amount*).
- (3) Also, in applying subsection (1)(a) to the last deduction, the financial institution must deduct the amount, not more than the amount stated in the notice for deduction for each regular deposit, that results in the total amount deducted by the financial institution being the total amount to be deducted under the notice.
- (4) If the financial institution is prevented by

subsection (2) from deducting from the account the full amount of the recoverable amount, it must deduct as much of the amount, if any, that it may deduct without contravening subsection (2).

Example—

If the recoverable amount is \$950, the protected amount is \$400 and the enforcement debtor's account has a balance of \$725, the financial institution must deduct \$325 from the account.

- (5) A deduction paid or kept by a financial institution under this section is a valid discharge of the financial institution's liability to the enforcement debtor to the extent of the deduction.

4 Clause 73 (Insertion of new pt 8A)

Page 74, line 9, 'section 134J'—

omit, insert—

section 134M

5 Clause 87 (Amendment of s 165 (Regulation-making power))

Page 94, lines 11 and 12—

omit, insert—

- (a) the activities that are unpaid work, and the restrictions, if any, on those activities being unpaid work, including, for example—
- (i) the places where an activity may be undertaken; and
 - (ii) the licences, authorisations or qualifications a person must have to undertake an activity;

6 Clause 88 (Insertion of new pt 10, div 7)

Page 95, after line 21—

insert—

183A Department (corrective services) is approved sponsor

- (1) From the commencement, the department (corrective services) is taken to be an approved sponsor for a work and development order to undertake unpaid work.
- (2) The chief executive (corrective services) may appoint an appropriately qualified person to supervise a person undertaking unpaid work under a work and development order.
- (3) The *Corrective Services Act 2006* applies to a person appointed under subsection (2) as if a reference in that Act to a community service supervisor were a reference to the person.
- (4) A corrective services officer has, subject to the directions of the chief executive (corrective services), the powers necessary to facilitate the department (corrective services) carrying out the functions of an approved sponsor.
- (5) In this section—

corrective services officer see the *Corrective Services Act 2006*, schedule 4.

department (corrective services) means the department in which the *Corrective Services Act 2006* is administered.

7 Clause 88 (Insertion of new pt 10, div 7)

Page 95, lines 22 to 30 and page 96, line 1—

omit, insert—

184 Other approved sponsors

- (1) This section applies if, before the

commencement, the registrar published, on the department's website, a list of entities that are to be approved sponsors under this Act.

- (2) From the commencement, an entity included in the published list is taken to be an approved sponsor for the types of work and development orders stated for the entity in the list.

8 Clause 89 (Amendment of sch 2 (Dictionary))

Page 103, lines 12 to 15—

omit, insert—

- (1) Schedule 2, definitions *address, administration charge and fine option order breach notice—omit.*
- (2) Schedule 2, definitions *authorised corrective services officer, civil enforcement fee, community service order, compliance period, corrective services office, default certificate, enforcement debtor, fine option*

9 Clause 89 (Amendment of sch 2 (Dictionary))

Page 104, after line 13—

insert—

fine option order breach notice means a notice, in the approved form, about a person's failure to comply with a fine option order and stating the following—

- (a) the full name and address of the person;
- (b) the offence to which the order relates;
- (c) if relevant, the infringement notice number to which the order relates;
- (d) how many hours of community service the person performed under the order;

- (e) the total amount owing because the person did not comply with the fine option order.

10 Clause 89 (Amendment of sch 2 (Dictionary))

Page 106, after line 9—

insert—

unpaid work means—

- (a) if a person's approved sponsor is the department in which the *Corrective Services Act 2006* is administered—the community service offered to the person by that department; or
- (b) otherwise—an activity, prescribed by regulation, that is performed by a person without pay.

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