Queensland Treasury response to issues raised in submissions to the Finance and Administration Committee Inquiry into the State Penalties Enforcement Amendment Bill 2017

Clause and policy issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
Clause 11 – 14A Recovery of vehicle identification costs	This section should be clarified to accommodate recovery of vehicle identification costs prior to referral to SPER and in recognition of different recovery practices by administering agencies. [Sub no. 11, LGAQ, p 2].	Proposed section 14A is intended to enable administering authorities to recover the cost of fees they incur to search vehicle registration records to identify the registered owner of a vehicle involved in an infringement notice offence, prior to referral of a debt to the State Penalties Enforcement Registry (SPER). Queensland Treasury (Treasury) acknowledges that administering authorities use different processes and practices to manage unpaid infringements. As a result, administering authorities may incur the search fees at differing stages of the collection process. Accordingly, further consideration will be given to providing clarification of this issue.
	Clarification is sought as to whether 'verification cost' includes both the council officer time cost for conducting a search and the vehicle registration search cost to establish ownership of vehicle (via Citec). [Sub no. 26, Logan City Council, p 2]	Proposed section 14A is intended to enable administering authorities to recover the costs of fees they incur to search vehicle registration records to identify the registered owner of a vehicle involved in an infringement notice offence, prior to referral of a debt to SPER. This provision is intended to clarify and replace the arrangements provided in existing section 35(3) of the *State Penalties Enforcement Act 1999* (the SPE Act), which only allows administering authorities to recover such fees where the unpaid amount is referred to SPER for collection. It is not intended to enable administering authorities to recover all costs incurred in conducting the search, such as the costs of staff time.
	Clarification is sought as to what constitutes 'reasonably incurs a cost in establishing ownership of the vehicle' (interpret this as including the cost of establishing ownership to issue a reminder notice to a vehicle owner, or identifying a vehicle owner to assist SPER recover costs). Clarification is sought as to whether the cost of establishing ownership would include obtaining registration details from Citec for the	Proposed section 14A is intended to enable administering authorities to recover the costs of fees they incur to establish ownership of a vehicle by obtaining registration details. Treasury considers that this cost may be reasonably incurred when the search is undertaken by an administering authority in order to issue an infringement notice to a vehicle owner by

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	purpose of issuing a parking infringement notice to a vehicle owner by post in the first instance. [Sub no. 26, Logan City Council, p 2]	post in the first instance, or to issue a reminder notice to a vehicle owner by mail in cases where the notice was initially placed on the vehicle. The fee cost would be considered to have also been reasonably incurred if the search was undertaken to identify the vehicle owner so the relevant infringement notice debt could be referred to SPER for collection.
Clause 12 – Amendment of s 15 (Infringement notices)	Administering authorities will need sufficient time to implement these changes after the legislation is enacted but before it commences as it may require changes to infringement notice templates and software systems. [Sub no. 26, Logan City Council, p 2]	Treasury acknowledges the impact of the SPER program on administering authorities. SPER will work with administering authorities to plan and manage the implementation. Key provisions impacting on administering authorities will commence on proclamation, providing time for change management. SPER will work with all external stakeholders whose operations are impacted by the changes.
Clause 24 – 32G Work and development orders	This has been tried before, the idea fell over because the government wasn't prepared to pay for a supervisor's time to oversee the offenders who elected to work out their fine in community projects. It is a good idea because the cost of supervisor's time must be less than the cost of incarceration. However, like last time the financial position of the government hasn't improved so maybe you are wasting your time. [Sub no. 12, Patrick Morton, p 1].	Currently, the only option available to a person who cannot pay, but wants to discharge their debt non-monetarily, is to perform unpaid work under the supervision of a Probation and Parole Office (PPO) within Queensland Corrective Services. This means that the avenues currently available for non-monetary discharge rely solely on the capacity of PPOs and availability of community service projects which involve an unpaid work component. Work and development orders will address these limitations by substantially increasing the number of organisations involved in supervising non-monetary debt discharge, and by including a broader range of activities that can be performed, in addition to unpaid work. Individuals will be sponsored by qualified and approved not-for-profit organisations, government agencies, statutory bodies and health practitioners (approved sponsors) to undertake programs and activities including mental or medical health treatment, drug or alcohol treatment, financial or other counselling, vocational, education or life skills courses, and unpaid work. This will substantially broaden the opportunities available to discharge their debt non-

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		monetarily and ensure that access to opportunities is not reliant on the capacity of one service provider.
Clause 24 – 32G Work and development orders (continued)	The WDO program is based on the NSW program, which included increased funding to Legal Aid and other organisations that were assisting participants and sponsors in relation to the program. Concerned that, without this additional funding, the Bill assumes that current service providers will take on additional participants through the WDO program with no extra resources and their services will be diminished. [Sub no. 15, Office of the Public Advocate, p 1] [Sub no. 24, Drug ARM, pp 1-2]	SPER has, and will continue to, consult with Legal Aid Queensland (LAQ) on implementation of the work and development order program, noting that LAQ supports the introduction of work and development orders (submission no. 18). LAQ's operating model is substantially different from its New South Wales (NSW) equivalent. LAQ has advised that as part of its existing information services to vulnerable clients, it could perform the role of promoting work and development orders and connecting clients to sponsors, without additional funding. The NSW work and development order program commenced in 2009 and has been operating state-wide since 2011. No additional resources have been provided to service providers to participate in the work and development order program. This has not proven to be a barrier to participation with over 2,000 organisations now registered as approved sponsors (up from 200 on commencement). It is expected that organisations that register as work and development order sponsors will already be directly funded by state or federal governments for the services they provide to individuals experiencing hardship. Based on evaluations conducted on work and development order programs in other jurisdictions, the majority of organisations that sponsor work and development orders do so to assist their existing client base. Work and development orders provide an additional incentive to existing clients who would benefit from programs such as drug and alcohol counselling or treatment for mental illness, to participate in, and stay in, treatment. Community service providers will not be obliged to sponsor work and development order participants.
	It is important that the WDO implementation is carefully developed with the community and potential sponsors are	SPER will establish a Work and Development Order Implementation Reference Group to facilitate consultation with potential sponsors on the implementation of work and

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	supported and encouraged. [Sub no. 19, Judy Andrews, p1]	development orders. The reference group will comprise representatives from non-government and government service providers and peak advocacy groups. It will provide input and guidance to SPER on the implementation of work and development orders, including the development of detailed guidelines which will support the operation of work and development orders.
	The implementation of the WDO Scheme needs to consider the administrative role for sponsors of the Scheme and capacity of community service providers to meet increased demand resulting from the Scheme; the need for active promotion of the Scheme to ensure vulnerable individuals have every opportunity to access the assistance available; and the need for a Working Group to be established to support effective implementation of the Scheme. [Sub no. 21, QCOSS, p 1]	SPER intends to implement streamlined administrative arrangements for work and development orders that are not onerous for community service providers that register as approved sponsors. Evaluations from other jurisdictions that have implemented work and development orders indicate that the majority of service providers register as sponsors to enable holistic services to be provided to existing clients. Increased demand for services has not been raised as a significant issue. Post-implementation, an independent evaluation of the work and development order program will be undertaken, which will include seeking feedback from sponsors. Approved sponsors, including not-for-profit community organisations and government agencies, will play a key role in promoting the scheme to clients to ensure that vulnerable individuals are able to access the assistance available. SPER will develop paper-based and web-based communications and promotional material for use by community organisations and also promote the scheme through local community forums. SPER will establish a Work and Development Order Implementation Reference Group, comprising non-government community service providers, peak advocacy groups and government agencies. The reference group will provide input and guidance to the department on the implementation of work and development orders, including the development of detailed guidelines which will underpin the operation of work and development orders.

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	Drug ARM Australasia would welcome the introduction of diversion services as part of the WDO scheme. This could include a reduction of fines for people accessing services such as Police Court Diversion or the Drug and Alcohol Assessment and Referral Service. Any additional program models from the pending Specialist Courts Review should also be taken in to consideration if not explicitly treatment. [Sub no. 24, Drug ARM, p 1]	SPER has been working with, and will continue to work with, the Department of Justice and Attorney-General and other agencies to ensure that where practical and appropriate, synergies between work and development orders and existing programs, such as the Drug and Alcohol Assessment and Referral Service, are leveraged during implementation.
Clause 24 – 32G Work and development orders (continued)	LawRight supports the introduction of WDO scheme to address the underlying causes of offending and allows individuals to improve their independence and agency. It recommends the scheme be flexible, transparent and accessible for vulnerable individuals, including people experiencing or at risk of homelessness in Queensland. [LawRight, submission 27, p. 3]	Treasury notes the support of LawRight for the introduction of a work and development order scheme.
	Section 32G – is unduly restrictive and will discriminate between Aborigine and Torres Strait Islanders living in urban areas who may not be eligible for a culturally appropriate program – recommend the deletion of the words 'and lives in a remote area'. [LawRight, submission 27, p 6]	The inclusion of culturally appropriate programs for Aboriginal and Torres Strait Islanders living in remote areas is intended to respond to stakeholder concerns about limited access to service options in remote areas of the State by providing expanded options in those areas. It is intended that Aboriginal and Torres Strait Islanders living in urban areas will be able to access other activities, such as life skills courses, counselling and mentoring programs that are targeted to Aboriginal and Torres Strait Islanders, and delivered in a culturally appropriate way.
32Q – revocation of WDO	The revocation of WDO when the hardship is deemed to be over needs to be considered. Recovery and stability are complex and ongoing processes e.g. someone escaping domestic violence may still face hardship after they have left an abusive relationship. Provision allows for sudden and arbitrary revocation of a WDO. 28 days to provide the registrar with information on why it should not be revoked is insufficient for people who do not have access to electronic communication and it is time consuming for pro-bono lawyers to provide the necessary assistance. Recommends genuine consultation with the person and the relevant	New section 32Q prescribes the revocation and appeals process for work and development orders. Ministerial guidelines will detail the operational process preceding formal revocation proceedings. SPER would work directly with the approved sponsor to understand the circumstances of the individual prior to proceeding with formal revocation processes. These processes will be clearly outlined in publicly available guidelines, which will be developed in consultation with key stakeholders.

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	sponsor before any decision to revoke a WDO. Recommends Registrar have discretion to extend the timeframe in 32Q and SPER guidelines include clear implementation process with the factors the registrar should consider for debtors' situational changes [LawRight, sub 27, p. 5-6]	
32S external review	LawRight acknowledges the external review processes but notes there is no internal review process in the Bill for decisions of the registrar. Recommends transparent and accessible internal review process for registrar decisions. Refers to Victorian example [LawRight, submission 27, p. 6 - 7]	SPER has internal review processes in place for its decisions. Appropriate internal review processes will consequently be applied in relation to work and development orders upon commencement.
Clause 24 – 32H Eligibility for work and development order (WDO)	Recommend a separate eligibility category for 'other special circumstances' to ensure WDOs are accessible to marginalised and vulnerable people who may not fit the categories outlined in the Bill (examples given in the submission). [Sub no. 4, Community Legal Centres Qld, p 2]. The proposed section 32H should also include a 'catch all' provision to allow an individual who does not fit within one of these categories but nevertheless should be eligible for a work and development order to make an application under this provision. [Sub no. 17, Qld Law Society, p 1] A guideline, provided to the administering authority to assist in the assessment of an individual who may be eligible for a work and development order pursuant to one or more of the identified categories (including the 'catch all' category) will be useful to ensure that consistent decision-making is applied. [Sub no. 17, Qld Law Society, pp 1-2] 32H – does not include an additional eligibility category for 'other special circumstances', the exclusion of this category will preclude certain individuals for being eligible for the WDO scheme. Such a category would allow people who are experiencing disadvantage based on life circumstances to be eligible, for example individuals exiting prison, those with unexpected illnesses, or gambling addiction. It therefore fails	Section 32H of the Bill provides that a person is eligible for a work and development order if the person is unable to pay their SPER debt because the person: • Is experiencing financial hardship; • has a mental illness; • has a cognitive or intellectual disability; • is homeless; • has a substance use disorder; or • is experiencing domestic and family violence. The eligibility categories provided for in the Bill provide sufficient scope for individuals to demonstrate eligibility on the basis of genuine hardship. Specific eligibility criteria are needed to preserve the integrity of the scheme. Publicly available guidelines and regulations will be developed, in consultation with key stakeholders, which will include clear definitions for each of the eligibility categories along with evidence of eligibility. SPER intends that the guidelines will provide that, where a person does not have sufficient evidence to demonstrate that they meet the eligibility criteria for financial hardship, then an application may be made to SPER by the sponsor to

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	to achieve the objective of 'inclusive eligibility criteria'. Law Right released a response paper (attached to the submission) [LawRight, submission 27, p. 5]	consider the specific circumstances of the individual. This approach would ensure that individuals in genuine financial hardship would not be excluded from accessing work and development orders.
Clause 24 – 32I No work and development order for restitution or compensation	The policy framework that recognises the limitations of individuals to pay a debt to the government should equally apply to compensation and restitution amounts administered by SPER so long as there is no disadvantage to the victim, as there is overlap between those who owe debts to SPER and those who have a history of being involved in the criminal justice system where compensation and restitution orders are made. [Sub no. 4, Community Legal Centres Qld, p 3].	Sections 35 and 36 of the *Penalties and Sentences Act 1992* provide that a court may order an offender to pay a person (the victim) who has suffered property loss or damage or personal injury in connection with an offence, an amount by way of restitution or compensation. Court-ordered compensation and restitution may be registered with SPER, with amounts recovered from the offender being remitted to the victim. Section 9 of the SPE Act currently provides that SPER must maximise the collection, for victims of offences, of amounts ordered to be paid by way of restitution or compensation. If work and development orders applied to compensation and restitution amounts, there would be no way of avoiding the victim being disadvantaged as the victim would forego the opportunity to receive the monetary compensation or restitution ordered by the court.
Clause 24 – 32J Application for work and development order	Vulnerable people need legal assistance to engage and negotiate with SPER; the establishment of "approved sponsors" as part of the implementation is an opportunity to ensure there is early and productive engagement with SPER so that debtors are fully aware of their liabilities. [Sub no. 4, Community Legal Centres Qld, p 3].	Treasury notes the Community Legal Centres' support for the establishment of 'approved sponsors' as part of work and development orders.
Clause 24 – 32R Satisfaction of SPER debt	It is not clear how WDOs will impact or be notified to the administering authority (e.g. local government) when a debt is finalised but no income is received. SPER should regularly report back to administering agencies on the number of conversions to WDOs and the monetary value of debt worked off through WDOs, to enable reconciliation and financial management by administering agencies. [Sub no. 11, LGAQ, p 2].	Unpaid infringements registered with SPER by local governments for enforcement can currently be discharged non-monetarily through a fine option order. The same reconciliation and financial management arrangements that currently apply to fine option orders, would apply to work and development orders. As part of the implementation of its new service delivery model, SPER intends to provide enhanced reporting to administering agencies.
	Concerned there has not been an establishment of a proper write-off system for debts for people who cannot pay, and	Section 150B of the SPE Act provides that a guideline issued by the Minister about the writing off of unpaid fines and other

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	should not have been liable for fines – specifically people with impaired capacity who cannot be held criminally liable for their actions. The current system of writing off such debts is not transparent and is largely unknown to the general public. [Sub no. 15, Office of the Public Advocate, p 1]	amounts payable under the SPE Act must not be made available to members of the public. The intention of this provision is to ensure debtors are not in a position to find and exploit possible loopholes to avoid payment of fines. The policy associated with the writing off of SPER debts is not within the scope of the Bill.
	Disappointed that the Bill did not explore and implement strategies to prevent the issuing of fines to people with impaired capacity who, because of their capacity issues, are not criminally responsible and therefore cannot be held liable for the fines. [Sub no. 15, Office of the Public Advocate, p 1]	Treasury notes the concern of the Office of the Public Advocate, however this issue is not within the scope of the Bill.
Clause 25 – 35 Lodgement fee for particular administering Authorities	Concern that registration fee, which will no longer be recoverable, will impose additional financial burdens on administering agencies. SPER has given commitment that the debt lodgement fee value will be set on the basis that it is cost-neutral in the first instance, and SPER has undertaken to refund lodgement fees if a debt is withdrawn or recalled from SPER within 35 calendar days – LGAQ expects SPER to honour these commitments. [Sub no. 11, LGAQ, p 2.]	SPER fee values are subject to Government consideration. However, as part of broad consultation undertaken on the legislative changes, Treasury advised LGAQ and consulted local governments that it is intended that the lodgement fee would be implemented on a budget neutral basis in the first instance. It is proposed that this would be achieved by adopting an initial value for the lodgement fee based on SPER's long term finalisation rate for debts referred by fine retaining agencies. As a result, fine-retaining agencies collectively would pay no more under the revised arrangements in the first instance than they would pay under existing arrangements on a no policy change basis. The Bill includes a provision to enable the registrar to return lodgement fees under circumstances prescribed by regulation. Such circumstances may include if an infringement notice is withdrawn before enforcement action is commenced under part 5 of the SPE Act. Under the business rules for SPER's new service delivery model, it is proposed that SPER will not commence enforcement action under part 5 until at least 35 days after an infringement notice default has been registered with SPER.
Clause 28 – replacement of section 40 – service of enforcement orders	LawRight welcomes the service of enforcement orders electronically and welcomes the requirement that the person must have consented to the use of electronic communication. These new amendments will allow greater	Treasury notes the support of LawRight for the electronic service of enforcement orders. In the Bill, electronic addresses can only be used by SPER

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	flexibility for people who do not have stable housing and who are not able to regularly access postal services. This section will provide individuals in transitory circumstances easier access to SPER notices, which should assist in quicker responses. [LawRight, submission 27, p. 4]	when a person gives their electronic address to SPER, or, if a person consents to use of the electronic address. Electronic service will be an alternative way of reaching people directly where people do not regularly access postal services. Electronic service will enable debtors to receive SPER correspondence including enforcement orders at an address most likely to result in receipt, thereby reducing the likelihood of non-receipt of documents and giving debtors the maximum opportunity to respond.
Clause 26 – Section 38 – fees for enforcement orders	Currently, registration and enforcement fees constitute a significant proportion of SPER debt, when compared to infringement amounts. Administrative fees disproportionately affect people who are on a low income, who are not able to pay the infringement amount at the time it is incurred. For vulnerable clients, Law Right supports ongoing accrual of enforcement and registration fees makes it increasingly impossible for them to address their SPER debts and further entrenches their disadvantage. LawRight supports a consistent fee arrangement which is clear and recognises the disproportionate effect of administrative fees on people in poverty. [Law Right, submission 27, p3]	The value and proportionality of SPER fees to infringement fine amounts are policy issues and are subject to Government consideration. Treasury acknowledges that vulnerable people and people with a low income may not be able to pay an infringement fine amount at the time the fine is incurred. The new arrangements for early referral of infringement debts will provide those people with the opportunity to have their debts referred to SPER early so they can enter into a payment plan with SPER without incurring any SPER fees. SPER's new payment plan arrangements will also provide the opportunity for those debtors to enter into a single payment plan for all their SPER debts, with payment amounts that take into account the individual's circumstances. Additionally, by providing that an enforcement order may relate to one or more infringement notice, new sections 38(3) and 39 will enable a single enforcement order to be made for multiple unpaid infringement notices issued to the same person, thus reducing the fees impost they incur. New section 150AA, which will enable the registrar to waive or return all, or part of, any fee payable under the Act in circumstances prescribed by regulation, will also enable SPER to better recognise financial hardship and help address the disproportionate effect of SPER fees on people in financial hardship. As indicated in the Explanatory Notes

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		for the Bill, circumstances which the fee may be waived may include if the debtor is experiencing hardship.
	Note new sections 38(3) and 39, which now stipulate that an enforcement order may relate to one or more infringement notice defaults. People experiencing multiple forms of disadvantage engage more regularly with the criminal justice system, incurring fines that they are unable to pay within the 28 pay period. The imposition of enforcement fees in these circumstances further marginalises vulnerable people, enforcing greater disadvantage. Supports a fee system that encourages disadvantaged people to engage with SPER to resolve their debts. [Law Right, submission 27, p4]	New sections 38(3) and 39 will enable a single enforcement order to be made for multiple unpaid infringement notices issued to the same individual. By providing that an enforcement order may relate to one or more infringement notice, this has the potential to reduce the fees impost incurred by vulnerable people who engage more regularly with the criminal justice system if multiple infringement notice defaults are referred to SPER at the same time by an administering authority. Additionally, the new early referral arrangements will provide those people with the opportunity to have their debts referred to SPER early so they can enter into a payment plan with SPER without incurring SPER fees. This arrangement will also encourage disadvantaged people to engage with SPER earlier to resolve their debts.
Clause 37 – 56 Application for cancellation of all or part of enforcement order	If Council makes the decision to cancel the enforcement order, they should not be liable to pay the SPER administration fee – it should be refunded. Further, it is important that SPER provide local governments with an administrative procedure on the process to assess whether an enforcement order should be cancelled, to ensure state-wide consistency. [Sub no. 26, Logan City Council, p 2]	The purpose of the lodgement fee is to serve as an incentive for agencies that are entitled to retain the proceeds of fines they impose to refer debt that is recoverable, as well as to contribute to offsetting enforcement costs incurred by the State on their behalf. An application to cancel an enforcement order can occur at any point in the enforcement process, prior to finalisation of a debt. This may include after SPER has taken actions and incurred costs to enforce the debt on an administering authority's behalf. Additionally, as indicated above, the Bill proposes that the registrar will have authority to return lodgement fees in circumstances where an infringement notice is withdrawn from SPER before enforcement action is commenced under part 5 of the SPE Act. This will enable the lodgement fee to be returned when an application to cancel an enforcement order is made prior to SPER undertaking enforcement action (i.e. prior to incurring costs to enforce the authority's debts).

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		Consequently, Treasury does not consider it appropriate to return a lodgement fee to an administering authority solely because the authority makes a decision to cancel an enforcement order.
Clause 37 – 57 Decision on application	It is important that SPER provide local governments with an administrative procedure on the process to assess whether an enforcement order should be cancelled, to ensure state-wide consistency. [Sub no. 26, Logan City Council, p 2]	Revised provisions relating to disputes (cancellation of enforcement orders relating to infringements) will commence on proclamation, enabling time for SPER to work with administering authorities, including local governments, to develop a transition plan. This plan may include the development of a practice guideline that is informed by SPER's practice in administering these disputes. Nonetheless, there are more than 70 administering authorities that already have widely varying administrative procedures and systems for the issue and management of infringement notices. This variability currently presents SPER with challenges in assessing applications relating to non-receipt of infringement notices. The extent to which a standard approach can be adopted with respect to assessing the application will be considered in the transition planning that will occur over the coming months.
Clause 37 – 60 Proceedings after the cancellation of enforcement order	Council support clarification on the limitation on proceedings being extended until 1 year after the date the order is cancelled. [Sub no. 26, Logan City Council, p 3]	Proposed section 60(3) re-enacts an existing provision that extends the time for starting a proceeding by extending the limitation period for making a complaint under the *Justices Act 1886* section 52 until 1 year after the date the order is cancelled.
Clause 47	The bill should include protections for vulnerable or destitute Queenslanders subject to fine collection notices, similar to protections granted for redirected earnings (section 82(2) the Act) or protections proposed when a financial institution makes a deduction. Recommends similar protection (as provided in clause 47, proposed new section 103C(3)(b)) should apply to proposed new section 75(1)(c). [LawRight, submission 27, p 7-8]	Proposed section 75(1)(c) in clause 44 of the Bill is a re-enactment of existing section 75(2)(c) of the SPE Act. For all fine collection notices (FCNs), section 77 provides for an enforcement debtor to apply to the registrar for the cancellation, suspension or variation of all or part of an FCN for facts that arise or are discovered after the FCN is issued. In the event an FCN has been issued for the regular redirection of deposits made to a financial institution account and the FCN results in financial hardship, this provision is able to be invoked.

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		Treasury notes LawRight's concern that the legislation provides safeguards when the garnishment of wages or a single amount from a financial institution account is used by referencing a protected earnings amount or a protected amount that must remain for the debtor, and that a similar protection should apply for an FCN for regular redirection from a financial institution account. Further consideration will be given to the suggestion provided in the submission.
Clause 49 – end suspension of drivers licence	Support for this provision [LawRight, submission 27, p. 9]	Treasury notes the support of LawRight for this provision.
Clause 73 –134E Power to record giving of information	This section authorises SPER to record interviews, with the provision that the person must be made aware of the fact of the recording and given a copy of the recording on request. However, section 134E does not oblige SPER to inform the person of their right to request a recording, and therefore unless the person has knowledge of their right to request a copy, they may not exercise that right. In keeping with Information Privacy Principle 5 and National Privacy Principle 5 (require that persons be actively informed of their rights, within reason, to access documents containing their personal information), a similar obligation to inform persons are recorded that they can subsequently obtain a copy of the record should be added to 134E. [Sub no. 2, Office of Information Commissioner, p 2].	Section 134E is the re-enactment of existing section 152B of the SPE Act in the new part 8A which has been created in the Bill to consolidate all provisions regarding information collection and information disclosure in the Act. It reflects the same policy intention as the current section. Information Privacy Principle (IPP) 5 requires an agency to take all reasonable steps to ensure a person can learn whether the agency controls a document, what type of personal information it contains, main purposes of use and what an individual should do to gain access. SPER must comply with the IPPs and therefore already has an obligation to inform the person they may obtain a copy of the recording. Accordingly, Treasury considers that there is no requirement to change proposed section 134E in the Bill.
Clause 73 – 134K Information sharing arrangements	While section 134K(2) commences with reference to the parties to the information-sharing arrangement, sub-section 134K(2)(c) mentions the purpose of 'enforcement of an offence administered by a prescribed entity. This suggests the information could be shared with a party to an information-sharing to another entity which may not necessarily be a party to the information-sharing arrangement. If the intent was to limit this potential use to the party to the to information-sharing arrangement only, then the use of the term 'party' or even 'the prescribed entity'	Section 134K(2) reflects a policy intention that the purpose of information sharing is limited to legitimate purposes related to penalty debt. Information may be provided to a prescribed entity for the purpose of enforcement of an offence administered by that entity. This information may also be provided by SPER to another entity where it is relevant to an offence administered by that entity. Two relevant examples are outlined below. Example 1 - SPER may have obtained an updated address for a debtor from prescribed entity number 1. If asked by

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	would make this clearer. [Sub no. 2, Office of Information Commissioner, p 2].	prescribed entity number 2 about the debtor's address details to assist them to enforce an offence they administer (e.g. helping them to determine the debtor's address to ensure an infringement notice is sent to the correct address), then SPER may share this information with prescribed entity number 2 to assist with enforcement of an offence administered by that agency. Example 2 – A prescribed entity may request information from SPER on the value of debt outstanding for a person and whether it is being otherwise discharged or if it is under enforcement, to assess the status of a person who has dealings with the prescribed entity and with SPER, prior to a legal proceeding or for consideration during sentencing for a new offence. Outstanding debts may include not only those debts which have been referred to SPER by the prescribed entity, but by other prescribed entities. Each entity in the above examples would also have an information sharing arrangement with SPER so would be subject to requirements regarding appropriate use of information received under the arrangement. If a prescribed entity places restrictions on the use of information provided to SPER the restrictions would reflected in the relevant arrangement. Treasury considers the relevant provisions of the Bill are appropriately limited to reflect the policy intention.
	Sub-section 134K(2)(d) is so broad it potentially negates all the preceding limitations. Section 134K(3) would to some degree put a regulatory limit on the information that could be disclosed, however the potential remains for a later change of regulation (subject to a lesser level of scrutiny) to provide almost unlimited information sharing for any purpose. [Sub no. 2, Office of Information Commissioner, p 3].	As noted above, the purposes under section 134K(2)(a)–(c), which include administration and enforcement of the SPE Act and enforcement of court orders or an offence administered by a prescribed entity, are intended to ensure information is only shared for legitimate purposes. However, the power to prescribe further purposes by regulation ensures that the purposes are not unduly restricted having regard to practical requirements. The intention of information sharing arrangements is to improve the performance of all agencies involved in the

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		administration of fines and penalties. Any regulation made would need to be consistent with the purpose of this section and its intended limitations, and will be required to be tabled in Parliament and will be subject to Parliamentary disallowance. Accordingly, Treasury considers that section 134K(2)(d) should remain in the Bill.
Clause 73 – 134L Disclosure of confidential information by registrar	Sub-section 134L(1)(a)(i) allows the 'owner of the personal information to give their consent for their information to be disclosed to 'someone else', and that consent can be express or implied. Consent should be limited to express consent given the general sensitivity of the SPER area of operation. [Sub no. 2, Office of Information Commissioner, p 3].	Section 134L(1)(a)(i) substantially re-enacts existing section 152G(2)(a)(i) of the SPE Act in the new part 8A. This ground for disclosure is consistent with section 11(1)(b) of the *Information Privacy Act 2009* (IP Act). SPER ensures it follows Office of the Information Commissioner (OIC) guidelines on Key Privacy Concepts – Agreement and Consent which outline that "where an individual has their Member of Parliament (MP), doctor, or solicitor write to an agency about a particular matter, an agency can assume that the individual impliedly agrees to the agency replying, including with any personal information about the person, to the MP, doctor, or solicitor". SPER often has to provide information for a response to letters from MPs in relation to matters regarding the SPER debt of a constituent. SPER relies on the current section 152G(2)(a)(i) of the SPE Act and the OIC guidelines regarding implied consent, to provide a response to assist the MP to respond to their constituent. If the disclosure on the basis of implied consent was removed from the SPE Act, this may limit SPER's ability to provide information for an appropriate response to MPs. SPER complies with the OIC guidelines in other circumstances and ensures consent is only implied in appropriate cases having regard to the nature of the information. Accordingly Treasury is of the view that implied consent should remain in section 134L(1)(a)(i).
	The definition of the term 'personal information' in section 134L is inconsistent with the definition given in section 12 of the Information Privacy Act 2009 (IP Act). SPER should use	Section 134L(5) re-enacts with substantially the same wording, an existing definition and policy intent from section 152G(6) of the SPE Act in the new part 8A.

Clause and policy issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	and reference the term 'personal information' as defined in section 12 of the IP Act. [Sub no. 2, Office of Information Commissioner, p 3-4].	When responsibility for SPER was transferred to the Office of State Revenue (OSR) in 2012, it was recognised that there was an opportunity to facilitate the sharing of information within OSR for administration of all legislation for which it is responsible. This definition was inserted into the SPE Act in 2012 when amendments were made to the SPE Act to adopt information access and confidentiality provisions consistent with comparable provisions in the *Taxation Administration Act 2001*, which applies to revenue laws administered by OSR. Further, as SPER debtors are corporations as well as individuals, it is appropriate that confidentiality requirements apply equally to both. Adopting the definition in the IP Act would mean the definition would only apply to individuals. The definition should remain as drafted to allow for the limited appropriate disclosure of information about corporations.
	Information sharing should include release of date of birth information held by the Department of Transport and Main Roads to councils for debt recovery and enforcement purposes. [Sub no. 11, LGAQ, p 1].	Treasury is advised by the Department of Transport and Main Roads (TMR) that it has approved the release of a debtor's date of birth to local councils for debt recovery and enforcement purposes and this arrangement is being implemented. The arrangements for sharing of date of birth information from TMR to councils are outside the scope of the Bill. However, if councils are a prescribed agency as part of the permissive information sharing regime under the Bill, they could obtain any date of birth information held by SPER, if date of birth information is information prescribed by regulation for the permissive information sharing arrangement. Treasury supports the receipt of date of birth information by councils and is of the view it would assist with upfront fine recovery by councils and reduce the likelihood of debts being sent to SPER.

Clause and policy issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
Clause 77 and 78 – waiver of SPER debt	LawRight supports the proposed waiver of SPER debt but considers that section 150A is currently not applied in practice. It supports a system that encourages the resolution of a person's SPER debt while recognising their disadvantage. We submit that a clear and accessible process to apply to have a debt waived, including the associated fees, would achieve this outcome. Notes that similar guidelines for the waiver of debt were not made public in NSW and Vic and recommends the guidelines should be public. [LawRight, submission 27, p 9-10]	New section 150AA will provide the registrar with the ability to waive or return all, or part of, fees payable under the SPE Act in certain circumstances. This power is separate to, and distinct from, the existing power in the Act for the registrar to write off unpaid amounts in accordance with guidelines issued by the Minister. The circumstances in which fees may be waived will be prescribed in regulation and therefore be publicly available. Treasury notes LawRight's comment that the debt write off provisions in the SPE Act are not currently applied in practice. The policy associated with writing off SPER debts is not within the scope of the Bill. However, SPER has established a process to undertake regular debt write off in accordance with guidelines issued by the Treasurer.
Clause 79 – information management	LawRight is concerned that the information management system will automatically generate correspondence and decisions as this is an inappropriate form of communication to vulnerable Queenslanders. Outdated information generated by an automatic system can cause distress and be confusing for vulnerable clients. LawRight encourages further development of effective communication regarding SPER debts particularly with vulnerable clients e.g. those with mental health concerns. [LawRight, submission 27, p. 4]	SPER's system will be authorised, subject to the registrar's approval, to automate correspondence and certain decisions. An example is the generation of an enforcement order requiring a person to pay a SPER debt and which outlines how they may respond to the debt. Issuing an enforcement order is generally the first step after a debt is registered with SPER and requires no discretion in decision making, so the notice will be automatically generated by the system. Automated correspondence is an efficient way to communicate with large volumes of SPER debtors. One of the outcomes being pursued by SPER's new service delivery model is to enable those who can, to self-serve, and allow SPER to better respond to those who have difficulty paying and those who choose not to pay. Automating correspondence enables this to occur. SPER will be better informed of a person's circumstances earlier in the debt recovery process and will be better able to identify those people experiencing hardship earlier. Debtors receiving correspondence also have the option to contact SPER by phone to discuss correspondence received

Clause and policy issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
		if it is unclear. As part of its new service delivery model, SPER is reviewing all its correspondence to make improvements to tailor and clarify the messages in the correspondence.
Proposed SPER Reference Group	Recommendation that SPER Reference Group be established to monitor compliance with the bill and consider whether new regulations or guidelines are required regarding: • the process of becoming an approved sponsor; • the definitional matters which have been left to the regulations. This includes • words used in section 32H, such as 'financial hardship', 'mental illness' and • 'substance use disorder'; • community resourcing; • the maximum amount of WDOs an individual may have;7 • the minimum threshold and maximum cut-offs for WDO activities; • whether the grounds of eligibility will affect the activities undertaken; • the amount of debt and WDO activity that can contribute to a SPER debt; and • how people living in regional areas can effectively access and participate in the • 6 Sentencing Advisory Council, The Imposition and Enforcement of Court Fines and Infringement Penalties • in Victoria (May 2014) 255. • 7 We note that under section 32L(2) of the SPER Bill, the registrar may refuse to make a WDO order if • making the order would result in more than the maximum number as prescribed by regulation. • WDO scheme.	SPER will establish a Work and Development Order Implementation Reference Group, comprising non-government community service providers, peak advocacy groups and government agencies. The reference group will provide input and guidance to SPER on the implementation of work and development orders, including the development of regulations and detailed guidelines which will underpin the operation of work and development orders. It is intended that the guidelines and regulations will address the issues raised in the submission.

Clause and policy issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
Dispute resolution	SPER should have a dispute resolution team to address the individuals' disputes about infringement notices after the debt has been referred to SPER. Cross references to the original infringement date & time and original amount of the fine should alleviate many disputes. A clear and reasonable process for an individual to follow on where, who and how to resolve a dispute. [Wendy de Graaf, submission 28, p2]	Part 4 division 6 of the SPE Act provides for a process for resolution of disputes about infringement notices after they have been referred to SPER. A person may apply to SPER to cancel the enforcement order to enable them to access the options available to them to dispute the infringement. SPER has a dispute resolution team to deal with these matters. The Bill includes amendments to part 4 division 6 to streamline and simplify this process for debtors by making an application to the administering authority where the dispute relates to an infringement notice.

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
Fees and penalties, and suspension of licence	Unpaid tolls should not be subject to fees, or excessive fees (1000%), or escalating fees, or a myriad of fees, which exacerbate the debt owed and can lead to cancellation of license and financial hardship [Sub no. 3, Alison Payne, p 1] [Sub no. 8, Glenn Taylor, p 1] [Sub no. 9, Andrew Turnbull, p 1&4] [Sub no. 13, Cameron Richards, p 1 of attachment]. [Sub no. 20, Josh Gale, p 1] The Government shouldn't be chasing debts owed to private companies. [Sub no. 6, Keith Thomas, p 1]. Consideration should be given to address the referral of toll fines to SPER. [Sub no. 17, Qld Law Society, p 2] Submitter's licence was suspended through SPER without his knowledge. He was driving uninsured without his knowledge until his local police after checking his licence advised him that he was unlicensed. Believes it's inappropriate that a person's licence can be suspended simply with a letter without any acknowledgement of the receipt of that letter by that person. [Sub no. 22, Chris Abbott, p 1]	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. The State Government does not collect revenue for toll road operators. There is a specific provision in the SPE Act (section 108) to ensure that the SPER suspension of a driver licence does not invalidate an insurance policy. A person has several opportunities to pay their infringement notice before being referred to SPER. After referral of an unpaid infringement notice to SPER, SPER is required to issue an enforcement order which gives the debtor a further opportunity to pay their debt in full or discharge their debt through a payment plan or non-monetary means. If the debtor does not pay or otherwise discharge their debt, they may be subject to enforcement. Prior to suspending a debtor's licence, SPER is required by the SPE Act to serve on the debtor a notice of intention to suspend their driver licence, providing the debtor with a further 14 days to pay or otherwise discharge their debt. If the debtor does not act, then the debtor's licence is suspended. This notice is currently posted to the most reliable address held by SPER for the debtor, and also to the postal address nominated in the TMR database if this is different to the SPER address. The notice clearly outlines that if the debtor does not enter into compliance within 14 days of the date of notice, their licence will be suspended. Due to the volume of notices sent, it is impractical for SPER to undertake personal follow-up with all debtors who do not subsequently enter into compliance. SPER is heavily reliant on contact details in the TMR database being current. The Bill proposes amendments to enable the service of all documents under the SPE Act to postal addresses. Further, the Bill also provides for electronic service of documents to an electronic address such as an email address. Helping people to receive documents under the SPE Act (including

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
		correspondence such as a notice of intention to suspend a driver licence) at an address most likely to result in receipt, gives people the maximum opportunity to respond early, pay or discharge their debt to avoid enforcement action. Under the new service delivery model, SPER will send notifications to debtors alerting them that their driver licence has been suspended. This is expected to include digital channels where possible.
Independent ombudsman	An independent ombudsman should be installed. This person should have the power to examine the facts and related evidence to the issue in question, and then determine a fair and equitable outcome regarding the dispute. [Sub no. 8, Glenn Taylor, p 1] [Sub no. 23, David Fowler, p 1] An independent ombudsman would be beneficial because there is no way to query a fine without going to court, and not everyone can/wants to take such a process. [Sub no. 10, Sophie Skordilis, p 1.] The current Tolling Customer Ombudsman (TCO) is employed by Transurban, which represents a conflict of interest. The TCO forwards email correspondence to Transurban for their response, which they never respond to, and a judgement is never given. [Sub no. 13, Cameron Richards, p 7 of attachment].	The issues raised in these submissions are matters of Government policy and outside the scope of the Bill. Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. Sections 22 and 41 of the SPE Act provide options to respond to an infringement notice including the ability to elect to have the matter of an offence decided in a Magistrates Court. The Queensland Ombudsman monitors complaints about the administration of toll related offences in regard to TMR, the Brisbane City Council and SPER.
Inflexibility of management of debt	Difficulty in negotiating payment plan with Transurban, for example: • paid $9,000 off a $20,000 debt for $400 worth of unpaid toll fees, and wanted to negotiate an amicable release from debt but told it wasn't possible [Sub no. 8, Glenn Taylor, p 2] • submitter (a truck driver) offered to make a payment but was told a $3000 minimum payment was required for a $20,000 debt which the submitter couldn't afford, license was cancelled and as a result submitter lost his house [Sub no. 1, Tasman Bryant,	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. Due to the high volume of transactions (more than 300,000 trips per day), compliance with timeframes for payment and driver nominations are critical for efficient processing. Legislation governing these processes falls within the portfolio responsibilities of the Minister for Main Roads. Under the existing section 28 of the SPE Act, administering authorities are able to withdraw an infringement notice at any time before it is fully paid, including after referral to SPER.

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	p 1] SPER automatic increase to monthly payment amount without consultation or notice [Sub no. 8, Glenn Taylor, p 3]	The Bill continues this provision with minor drafting changes. The extent to which this discretion is used by TMR to withdraw tolling-related offences is a matter for TMR to consider in the context of the regulatory framework governing road use. Once the debt is registered with SPER, the debtor can engage at any time to enter into a payment arrangement for the overdue fine. Where SPER considers the risk of default to be high, SPER will require an upfront payment before a plan is agreed (and enforcement lifted). SPER does not have power to increase payment amounts without the debtor's consent, nor is this proposed in the Bill.
Difficulty with navigating the public-private partnership (Transurban, Tolling Offence Unit, Tolling Ombudsman, SPER), to query, negotiate and manage fines and fees	Submitter provides information on each entity passing responsibility for dealing with the complaint elsewhere, so that even at the point where the submitter manages to gain a successful appeal against the penalties, GoVia then refused to advise SPER and the TOU of the successful appeal, and the TOU and SPER denied having any executive or administrative responsibility to deal with appeals or waivers would not accept the result of the appeal, despite the submitter having the email from Govia advising the appeal had been successful. [Sub no. 13, Cameron Richards, pp 3-6 of attachment].	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. Due to the high volume of transactions (more than 300,000 trips per day on State-controlled roads), compliance with timeframes for payment and driver nominations are critical for efficient processing. Legislation governing these processes falls within the portfolio responsibilities of the Minister for Main Roads. Under the existing section 28 of the SPE Act, administering authorities are able to withdraw an infringement notice at any time before it is fully paid, including after referral to SPER. The Bill continues this provision with minor drafting changes. The extent to which this discretion is used by TMR to withdraw tolling-related offences is a matter for TMR to consider in the context of the regulatory framework governing road use.
Fines are incorrect or often aren't received, and follow-up doesn't occur until months later when fees have accumulated	Many people don't receive their infringement notices for various reasons, or are unaware there is a problem with their account, and then are penalised through no fault of their own, for example, lost mail, broken tag, account temporarily below funds required for top-up, someone else driving the car. [Sub no. 7, Bernard Bradley, p 2.] [Sub No. 9, Andrew Turnbull, p 2] [Sub no. 13, Cameron Richards, p 1	The Bill proposes amendments to enable the service of all documents under the SPE Act (including infringement notices) to postal addresses such as a PO Box or parcel locker. The amendments would enable all agencies issuing infringement notices to serve infringement notices to the

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	of attachment] [Sub no. 14, John Zohrab, p 1] [Sub no. 20, Josh Gale, p 1]	address most likely to result in receipt. Helping people to receive documents under the SPE Act (including infringement notices) at an address most likely to result in receipt, gives people the maximum opportunity to respond early to pay their infringement notice, thus reducing further fees being applied when unpaid fines are referred to SPER and enforcement action is taken. There are existing provisions in the SPE Act (sections 55-60), which are proposed to be amended as set out in Clause 37 of the Bill, that enable people to apply to restart the infringement notice process (and cancel enforcement and reverse enforcement fees) if they did not receive their infringement notice. The proposed amendments will make it easier for people to engage with issuing agencies to fully resolve their issue, particularly if they want to nominate another driver for a traffic camera-related offence. There is also a specific proposed amendment (Clause 37 proposed sections 57(3) and (4)) that will require a person to update their address details with TMR before their application will be considered if they failed to receive their notice because their address was not current in the TMR database.
Transport Operations (Road Use Management) Act 1995	The default position for someone who doesn't respond to a 'Courtesy Notice – Your License Option Choice', which offers a good driving behaviour (GDB) and allocates one point and is the last notice before a license is suspended, shouldn't be a three-month suspension if a GDB can be offered. The GDB should be the default position. [Sub no. 7, Bernard Bradley, p 2.]	The policy and practice for transport related offences are administered by TMR. Issues relating to those matters are not within the scope of the Bill.
SPER is unconstitutional and corrupt	SPER is a quasi-government organisation which doesn't follow due process, attempts to bypass the Constitution of the Commonwealth of Australia, and uses fear tactics and threats of intimidation and enforcement notices to unlawfully take actions against individuals. They should not be allowed to have more power under acts that still cannot be proven to be valid according to the Constitution of the Commonwealth	The SPE Act authorises SPER to collect unpaid fines and penalties and confers a number of enforcement powers on SPER for that purpose. These issues are not within the scope of the Bill.

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	of Australia. There should be a review of their conduct, and their ties to private corporations whose penalties they enforce. [Sub no. 14, John Zohrab, p 2] Not only does SPER have the power to remove or suspend a person's licence but the submitter believes they can also access a person's assets. Submitter suspects this could be argued as a constitutional breach and considers it a gross breach of civil liberties. (Sub no. 22, Chris Abbott, p 1]	
Difficulty dealing with GoVia when you own the vehicle but weren't the driver who incurred the fines	Signed a statutory declaration advising he wasn't driving the car at the time the tolls were incurred, and provided son's phone number who was the driver at the time, but Go Via won't accept the stat dec because there is no address for the son and won't call the son because they aren't allowed to make outside calls. Meanwhile penalties are being added. When the son calls to admit the offences, GoVia won't talk to the son because he's not the registered owner of the car. Their debt recovery practices need to be reviewed. [Sub no. 16. John Freeman, p 1] Borrowed daughter's car, rang GoVia to try to make payment but advised they couldn't give cost on the toll because they didn't have it in 'real time'. Asked them to call back with amount but they never did. One month later daughter rang back with four infringement notices for $230. Tried to settle account with Go Via (paying toll fees, not any additional fees incurred seeing as there had been an attempt to make a payment at the time) and was told they would not deal with submitter because he was not the registered owner of the car [Sub no. 6, Keith Thomas, p 1].	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. Due to the high volume of transactions (more than 300,000 trips per day on State-controlled roads), compliance with timeframes for payment and driver nominations are critical for efficient processing. Legislation governing these processes falls within the portfolio responsibilities of the Minister for Main Roads. Under the existing section 28 of the SPE Act, administering authorities are able to withdraw an infringement notice at any time before it is fully paid, including after referral to SPER. The Bill continues this provision with minor drafting changes. The extent to which this discretion is used by TMR to withdraw tolling-related offences is a matter for TMR to consider in the context of the regulatory framework governing road use.
Toll evasion can be accidental, but driver is still penalised and hit with fees	Submitter's account didn't have enough for the automatic top-up, so GoVia cancelled his top-up arrangement without notification. His tag would beep three times as he went through a toll, but he wasn't aware of what that meant and because he had an automatic top-up, he didn't think anything of it. He continued to accumulate toll fees and associated penalties without being aware of the issue. [Sub No. 9, Andrew Turnbull, p 2]	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. Under the existing section 28 of the SPE Act, administering authorities are able to withdraw an infringement notice at any time before it is fully paid, including after referral to SPER. The Bill continues this provision with minor drafting changes. The extent to which this discretion is used by

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	The GoVia tag of the submitter's son stopped working without him realising it, and five months later when GoVia 'really went to any trouble to contact him' he had $175 in tolling fees but a debt of around $12,000. [Sub no. 13, Cameron Richards, p 1 of attachment] Submitter has nearly $20000.00 in toll fines that have been racked up by his family over a period of time, as he is a FIFO worker and spends long periods of time away for work. The vehicles that were driven by his family were registered in his name. This is documented in Stat Decs that he has forwarded to the Toll Offences unit and SPER, but he still owes a debt of $20,000. [Sub no. 20, Josh Gale, p 1]	TMR to withdraw tolling-related offences is a matter for TMR to consider in the context of the regulatory framework governing road use.
Cash tolls should be re-introduced to prevent accidental toll evasion	If toll booths are in place, people who can't raise the cash can't travel on the roads. When the Gateway Arterial had toll booths, there was never any problem [Sub no. 6, Keith Thomas, p 1]. Toll money-gouging, and related arrangements with relevant government agencies is how the new system automatically treats any of the related myriad genuine challenges of digital processing and payment (resulting from the loss of a manual toll payment option) as acts of intentional evasion when mostly they are not. It is common sense that any move from manual tolls (where 'toll evasion' as such is generally clear cut) to cashless, automated electronic toll collection will result in many inadvertent non-payments which are clearly not wilful 'evasions' or violations. [Sub no. 13, Cameron Richards, p 1 of attachment]	Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads. The use of free-flow tolling is a matter of Government policy and is not within the scope of the Bill.
Proposal for streamlined fee/fine management	Record the fees/fines as F (financially recoverable), S (sale of assets required to recover) or U (unrecoverable in a financial sense. Commence the following processes for all items not fully paid within 21 days. Where there is evidence on which to assign, the relevant SPER clerk will process the three different categories based on that evidence. In the absence of any evidence to the contrary, it will be assumed	Attachment 1 of Treasury's departmental brief for the Finance and Administration Committee outlines SPER processes, including the source of debts from either government agencies or courts. The SPE Act requires agencies to give a period of 28 days from service of an infringement notice to pay the fine, while courts may determine the time to pay. Following registration of a debt,

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	that the payment is F and will be actioned on that basis. F – assign the debt to a third party. Add the debt against the registration fees of the motor vehicle associated with the event giving rise to the fine of fee. (Separate but relevant recommend that registration of all vehicles be made monthly – now much easier without the administration of labels etc). Automatically debit any related financial account (eg credit card, bank savings etc) in the name of relevant party. S – proceed with a Magistrates' Court judgment and warrant of execution An appeal process is to be place and is to (a) in writing or email to the Disputes Officer at SPER, (b) a recommendation by the Disputes Officer which may be either (i) proceed as normal, (ii) reduce to a lower amount, or (c) remove the debt, and (c) a simple review panel (possibly 3 persons) to decide U – submit records of the fees for automatic action as per a standard 'community service order'. Cease all other action whenever a fee/fine is paid in full.	SPER is required to make an enforcement order that provides another 28 days for debtors to discharge the debt or elect to have the matter heard in court. If no action is taken by the debtor, SPER can commence enforcement action. The alteration of these statutory timeframes is not within the scope of the Bill. SPER has enforcement powers, such as seizure and sale of property and garnishment of money, which are also available to courts in proceedings to satisfy judgement debts. SPER has additional powers including driver licence suspension and vehicle immobilisation. The inclusion of new enforcement powers for SPER, such the ability to affect vehicle registration or apply SPER debts to vehicle registration costs, and providing for Magistrates Court proceedings for enforcement of the debt, are matters of Government policy and are not within the scope of the Bill. The Bill provides a broader range of non-monetary finalisation options including work and development orders for debtors experiencing hardship. The Bill also inserts new section 150AA which provides a power for fee waiver. For other circumstances of unrecoverable debt, the existing power to write-off amounts continues in the Act.
General proposals for the operation of SPER	**Non-monetary debt** Unpaid community service supervised by Probation and Parole within QCS an avenue for non-monetary debt discharge. Work & development scheme to enable individuals to reduce their debt. Full payment of a debt over and above $2,000 should be negotiated and taken the individual financial position. Demanding the full debt to be paid and preventing the individual from Driving is deemed as putting the individual into hardship and opens up to breech of ASIC rulings as a credit provider. **Fairer fees** Imposing $63.00 per infringement on top of the original debt	The Bill provides a broader range of non-monetary finalisation options including work and development orders for debtors experiencing hardship. The provisions in the Bill relating to payment plans give SPER improved ability to consider the debtor's entire circumstances in setting a payment plan. Entering a payment plan for the debtor's enforceable amount of debt is a ground for avoiding or lifting enforcement action including a driver licence suspension. SPER collects overdue fines issued by TMR for tolling-related offences. Fees are then added to the fine amount by SPER at various points in the enforcement process if the fine remains unpaid. (Attachment 1 provides a general

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
	that has already been increased by the various Councils prior to the debt being forward to SPER. Example a $2.06 e-toll fee for Loganlea toll in September 2014 becomes $159.00 plus SPER admin fee of $60.90 makes it $219.90. This is outrageous and appears to be double dipping by the governments. Turning an individual's initial e-toll evasion for 100 tolls with an average of $3.50 each equals $353.50. With end cost to SPER as per their statement of debt makes it $22,590.30. This is more than a car for most and unrealistic cost for any individual to repay.	overview of the tolling enforcement process for State controlled roads.) The Bill contains provisions that will enable SPER fees to be applied more fairly and consistently in the enforcement process.
General issues – unknown infringements notices and road toll	[David Holder, Submission no 25, p, 1-2] Raises general concerns around a person not knowing they received an infringement notice, e.g. while travelling, despite taking action to redirect and receive mail. Also raises concern regarding Transurban/GoVia toll fines.	The Bill proposes amendments to enable the service of all documents under the SPE Act (including infringement notices) to postal addresses such as a PO Box or parcel locker. In the Bill, electronic addresses can be used by SPER when a person gives their electronic address to SPER, or, if a person consents to use of the electronic address. Electronic service will be an alternative way of reaching people directly, where people do not regularly access postal services. Helping people to receive documents under the SPE Act (including infringement notices) at an address most likely to result in receipt, gives people the maximum opportunity to respond early, pay or discharge their debt to avoid enforcement action. There are existing provisions in the SPE Act (sections 55-60), which are proposed to be amended as set out in Clause 37 of the Bill, that enable people to apply to restart the infringement notice process (and cancel enforcement and reverse enforcement fees) if they did not receive their infringement notice. The proposed amendments will make it easier for people to engage with issuing agencies to fully resolve their issue, particularly if they want to nominate another driver for a traffic camera-detected offence. In proposed section 56(3), the Bill re-enacts the provision enabling extension to the timeframe for making an application (no later than six months after the enforcement

General issue	Issues raised [include sub no, name and page no in brackets]	Departmental response
		order date) if there are reasonable grounds for the delay. There is also a specific proposed amendment (Clause 37, proposed sections 57(3) and (4)) that will require a person to update their address details with TMR before their application will be considered if they failed to receive their notice because their address was not current in the TMR database. Attachment 1 provides a general overview of the tolling enforcement process for State controlled roads.

Attachment 1

General overview of the tolling enforcement process

The tolling enforcement framework for Queensland is outside the scope of the State Penalties Enforcement Amendment Bill 2017 except to the extent that tolling-related overdue fines are referred to, and managed by, SPER. Nonetheless, this general overview has been compiled by Queensland Treasury with support from the Department of Transport and Main Roads (TMR) to provide a context to the Finance and Administration Committee in which to consider the submissions that make specific mention of SPER's role in managing tolling-related debt. Requests for further information relating to tolling enforcement that is not within scope of the Bill may be directed to TMR.

TMR manages the policy and legislative framework for toll roads in Queensland under the provisions of the *Transport Infrastructure Act 1994* (TIA). All toll roads in Queensland are operated by Transurban Queensland under concession agreements with the State (Gateway and Logan Motorways and Airportlink) and Brisbane City Council (Legacy Way, Clem 7 and Go Between Bridge). The comments below relate to the State's toll roads.

Legal Environment

Tolling compliance and enforcement is governed by a suite of legislation and agreements:

- the TIA
- the Road Franchise Agreement (Gateway and Logan Motorways)
- The Airport Link Project Deed
- Agreement for Provision of Vehicle Registration Information for Toll Compliance (TRAILS agreement)
- the *State Penalties Enforcement Act 1999* (SPE Act) and the associated *State Penalties Enforcement Regulation 2014*

Transport Infrastructure Act 1994

The TIA is the key legislative instrument with respect to toll roads.

Chapter 6, Part 7 of the TIA sets out the legislative framework for tolling compliance and enforcement for the State's toll roads and is applicable to all motorists who elect to use the toll roads. (Note: a separate Part 8 applies to local government toll roads.)

Section 99 (3) of the TIA establishes the offence of failing to comply with a notice of demand (issued by the toll road operator (TRO) for an unpaid toll), unless the registered operator has a reasonable excuse. Section 99 of the TIA provides for the process to be used by a registered owner to make a driver nomination to the toll road operator as a response to a request for payment by the TRO.

Toll Road Declarations

The Minister for Main Roads may make a declaration under the TIA that a toll is payable for the use of a franchised road. Current declarations are in place for the Gateway and Logan motorways and AirportLinkM7 and include notice of matters mentioned in Schedule 5 of the TIA. Among other matters, the declarations include information on the maximum tolls for each vehicle class, the maximum user administration charge (for example, the video matching fee) and maximum administration charge for issuing a demand notice for unpaid tolls, methodology for annual CPI increases and a description of available payment arrangements.

Road Franchise Agreement – Gateway and Logan motorways

The Road Franchise Agreement (RFA) between the State and the franchisees (Queensland Motorways Pty Limited, Gateway Motorway Pty Limited and Logan Motorways Pty Limited) came into effect on April 1, 2011. The RFA sets out the rights and obligations of the parties in relation to the operation and maintenance of the Gateway and Logan motorways for the duration of the 40 year concession period, ending 2051.

The RFA identifies the requirement for the State to undertake enforcement services for the Gateway and Logan motorways.

Airport Link Project Deed

In 2008, the State (acting through the then Minister for Transport and Main Roads) entered into a Road Franchise Agreement (in this instance, part of a Project Deed) with Brisconnections under the TIA, for the Airport Link project. The Project Deed authorised the construction of infrastructure for the Airport Link works (including the tollroad) and granted a 45 year concession to Brisconnections Trustee and Brisconnections Operations (collectively referred to as 'Brisconnections') to:

- design, construct and commission the AirportLink project, and
- operate, maintain and repair the tollroad.

The Project Deed contains a similar provision to Queensland Motorways' RFA with respect to enforcement. However, the State's enforcement regime applicable to toll roads in 2008 pre-dated the removal of toll booths and the introduction of free-flow tolling in July 2009. At that time, fewer demand notices and referrals to TMR for the issue of a penalty infringement notice (PIN) were progressed as the toll booths provided motorists with an "on-road" method (and subsequent barrier) for paying the toll. The Project Deed concession period ends in 2053.

Agreement for Provision of Vehicle Registration Information for Toll Compliance (TRAILS agreement)

TMR collects and maintains a register of Vehicle Registration Information under the *Transport Operations (Road Use Management - Vehicle Registration) Regulation 1999*. Toll road operators require access to the vehicle registration information for the purposes of enforcing toll compliance.

TMR provides toll road operators with select information collected in its motor vehicle registration database (TRAILS) for a fee.

The motor vehicle registration information is used by TROs for two specific purposes:

Information	**Specific Use**
Vehicle details (make, model, weight, number of axles and purpose of use)	To help calculate the correct toll for motorists
Name, street address, email address and telephone number of the registered operator	To follow-up with motorists who have not made an arrangement to pay for use of the toll roads.

The TRO conducts initial compliance activities including the issue of unpaid toll invoices. The invoice charges are identified as user administration charges (video matching fees and casual user invoice fees) under the toll road declarations. Where an invoice is unpaid, the toll road operator may issue a demand notice.

State Penalties Enforcement Act 1999* (SPE Act) and the *State Penalties Enforcement Regulation 2014

The State Penalties Enforcement Registry (SPER) operates under the SPE Act and the *State Penalties Enforcement Regulation 2014*.

Part 3 of the SPE Act provides the legislative basis and supporting framework that enables administering authorities such as TMR to issue a PIN, commonly known as a fine or ticket, including specification of what must be included in the infringement notice. The remainder of the SPE Act deals with centralising and executing the collection and enforcement of unpaid fines and court ordered amounts which are referred to SPER.

The *State Penalties Enforcement Regulation 2014* is subordinate legislation that:

- sets out the offence provisions (across all Acts that define offences) that are prescribed as infringement notice offences for which PINs may be issued;
- prescribes the administering authorities and the authorised persons for infringement notice offences;
- prescribes particulars that must be included in infringement notices and details that an administering authority must provide to SPER regarding an unpaid PIN; and

- prescribes fees and other monetary amounts relevant to the administration, collection and enforcement of unpaid amounts.

Schedule 1 of the *State Penalties Enforcement Regulation 2014* reflects inclusion of the offence specified in Section 99 (3) of the TIA as a penalty infringement notice (PIN) offence with a value of $1^2/_5$ penalty units. The current value of a penalty unit is specified as $121.90 in the *Penalties and Sentences Regulation 2015*. The current value for a tolling-related PIN is $170.

Current process

Since July 2009, Queensland toll roads use free-flow (electronic) tolling, which means that there is no need to stop and pay the toll while using the road. Instead, motorists who do not have a payment arrangement must contact Transurban Queensland (through *go via* – Transurban Queensland's toll payment provider) to arrange toll payment within 3 days of travel.

The escalation process for an unpaid toll after three days is reflected in the chart on the last page of this attachment. Of particular note are the following:

- Due to the high volume of transactions (more than 300,000 trips per day), compliance with timeframes for payment and driver nominations are critical for efficient processing. The window for a road user to negotiate with the toll road operator closes with the referral of the unanswered demand notice to TMR for consideration of issuing of a PIN. At that point, the toll road operator stops pursuing the revenue (i.e. it writes off the specific debt). Legislation and other agreements governing the processes used by the toll road operator are administered by the Minister for Main Roads.

- It is TMR's current practice to accept statutory declarations in relation to not being the driver of the vehicle as a valid response to a PIN.

- Further, the SPE Act enables an administering authority to withdraw a PIN at any time before it is fully paid, including after referral to SPER. This provides a mechanism for TMR to accommodate exceptional circumstances, the facts of which may emerge after referral of a PIN or multiple PINs to SPER. For example, the registered operator may write to the Director (Central Operations and Support) and provide proof:
  - they were away from their residence or outside of Australia at the time of the demand notice being issued,
  - they had sold the registered vehicle prior to the toll travel occurring, yet TMR records did not reflect this at the time of demand notice issue, or
  - the registered operator provides supporting evidence of an exceptional circumstance for failing to comply with the demand notice, satisfying the "reasonable excuse".

- PINs issued by TMR are in relation to a single demand notice and a single tolling event.
  - Under the proposed amendments (Clause 26, proposed section 38 (6)), individual PINs can be aggregated on a single SPER enforcement order, to which a single fee will apply. This means that when multiple tolling PINs for the same person are referred by TMR in a single batch, these will be aggregated by SPER for the purpose of issuing an enforcement order, and a single fee applied.

- Neither SPER nor TMR collect unpaid tolls. TMR and SPER collect only the fine (and associated enforcement fees in the case of SPER) that are owed to the State arising from the issue of a PIN by TMR. The TRO writes off revenue for each trip that is referred to TMR for a PIN, and receives no financial benefit from any subsequent PIN payment.

- The fine value for "failure to respond to a demand notice" is a matter of Government policy.

- SPER's role in enforcing tolling fines comes at the end of a lengthy process that typically lasts three to four months, during which people have had several opportunities to deal with their unpaid toll (with the TRO) or the resulting fine (with TMR).

- The TRO, TMR and SPER are critically reliant on contact details in the TMR database being current. If a person does not update their mailing address with TMR, the person will not receive any of their notices (invoice and demand notice from the toll road operator, penalty infringement notice from TMR or enforcement order from SPER). They may not be aware they are under enforcement until SPER undertakes data enrichment (to source a new address when notices come back to SPER as "return to sender" for example) and eventually makes contact with them or when pulled over by police while driving and are advised that their licence is suspended. Whilst some notices genuinely get lost in the mail, in most cases where people did not receive their notices, this is due to out of date address details in TRAILS.
  - There are provisions in the current Act (sections 55 -60) and proposed amendments (Clause 37) that enable people to apply to restart the PIN process (and cancel enforcement and reverse enforcement fees) if they did not receive their PIN. Proposed section 56 (6) re-enacts the existing provision to enable multiple PINs to be aggregated into one application. There is also a specific proposed amendment (Clause 37, proposed sub-sections 57(3) and (4)) that will require a person to update their address details with TMR before their application will be considered (if the reason they did not receive their PIN was because their address was not current).

- SPER does not treat tolling debt differently to other penalty debt. Rather, SPER's case management approach focusses on the total debt owed by the debtor in determining an appropriate treatment strategy.

ESCALATION PROCESS FOR UNPAID TOLLS, FINES & FEES[1]

Toll Road Operator (TRO) | DTMR OR BCC | SPER

VEHICLE INCURS TOLL

Vehicle passes through toll point.

TOLL
(example only – Class 2 at Murrarie)
$4.39

DUE
Within 3 days of passing through toll point

UNPAID TOLL INVOICE (OPTIONAL)

If the vehicle is not linked to an active video or tag account and no arrangement to pay is made within 3 days, a toll invoice is issued to the registered operator.

If the registered operator was not the driver when the toll was incurred, the registered operator may nominate the driver to the TRO before the invoice due date.

The invoice includes the amount of the unpaid toll/s, plus an admin fee and/or an image processing fee.

DEBT
(example only)
$ 4.39
$ 0.47 video matching fee (VMF)
$ 8.21 invoice fee
$13.07 owing

DUE
14 days

DEMAND NOTICE

If the invoice is not addressed by the due date, the TRO may issue a Demand Notice (DN) to the registered operator of the vehicle or the nominated driver.

The registered operator may nominate the driver to the TRO before the demand notice due date.

The TRO issues a separate DN for each unpaid toll.

DEBT
(example only)
$ 4.39
$23.46 admin fee
$27.85 owing

DUE
30 days

If the DN remains unpaid[2], TROs may refer the DN to TMR or BCC for consideration of a penalty infringement notice (PIN).

The TRO writes-off the associated revenue when a trip is referred for a PIN.

INFRINGEMENT NOTICE

The relevant enforcement agency (e.g. BCC[3] or TMR) may issue a PIN.

The PIN is issued for failing to comply with the DN within the required timeframe unless the registered operator has a reasonable excuse.

(TMR accepts statutory declarations for driver nomination at this stage.)

The penalty amount is payable to either TMR or BCC. The TRO does not receive any of the penalty proceeds from TMR issued PINs. TRO writes off revenue for each trip that is referred to TMR for a PIN.

DEBT
$170.00 infringement penalty

DUE
28 days

UNPAID FINE REGISTERED WITH SPER

The overdue PIN is registered with the State Penalties Enforcement Registry (SPER). SPER issues an enforcement order.

The SPER compliance process is used to collect the infringement notice debt (not the unpaid toll or TRO fees).

DEBT
$170.00 fine
$ 65.20 SPER registration fee
$235.20 owing

DUE
28 days

Notes:

1. Fee and fine values are indicative and subject to indexation.
2. For State-controlled roads, the TRO may engage approved external debt recovery agencies to pursue debtors whose debt has reached a nominated value.
3. BCC's PIN management strategy is a matter for BCC. BCC has the option of registering overdue PINs with SPER in accordance with arrangements for fine-retaining agencies.