

# **FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT AMENDMENT BILL 2011**

## **EXPLANATORY MEMORANDUM**

### **PART 1 – Preliminary**

#### **1 Short title**

The short title will be the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012*.

#### **2 Commencement**

Specifies that sections 1 and 2 come into operation on the day of Royal Assent and the rest of the Act on a day fixed by proclamation.

### **PART 2 – *Fines, Penalties and Infringement Notices Enforcement Act 1994* amended**

#### **3 Act amended**

Specifies that this Part amends the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

#### **4 Section 3 amended**

Subclause (1) defines certain terms to be used in the Act.

Subclause (2) makes clear that a vehicle licence is held by the person who holds that vehicle licence regardless of whether the licence is suspended.

#### **5 Section 5 amended**

Subclause (1) amends section 5(3) to include the service of documents under Part 5A that allows for the publication of a person's details on the fines enforcement website.

Subclause (2) amends section 5(4) to allow for addresses to be taken from the Electricity Retail Corporation, when there is an absence of an address from other sources.

#### **6 Section 7A amended**

Amends section 7A so that the Registrar may delegate the power to issue an enforcement warrant.

#### **7 Section 10 amended**

Subclause (1) inserts the words "or convenient" to increase the Registrar's access to records kept by the Director General *and* the Electricity Retail Corporation.

Subclause (2) specifies the records the Registrar will be able to access, including those relating to the licensing authorities for drivers' licences and vehicle licences and those held by the Electricity Retail Corporation.

## **8 Section 10A amended**

This clause amends section 10A to enable the Registrar to disclose information to the Department of Corrective Services.

## **PART 3 – Infringement notices**

### **9 Section 11 amended**

Amends section 11 to include the definitions of: “aggregate unpaid infringement amount”, “outstanding order to pay or elect” and “unpaid infringement amount”.

*Aggregate unpaid infringement amount* is the total amount of unpaid infringements for each outstanding order to pay or elect.

*Outstanding order to pay or elect* is when an order to pay or elect has been issued and –

- (a) the total amount specified in the order has not been paid, or recovered under an enforcement warrant; and
- (b) an election has not been made under section 21; and
- (c) there is no time to pay order in relation to the order; and
- (d) an enforcement warrant issued in relation to the order is in force and no arrangement under 68A has been made to the warrant; and
- (e) the prosecuting authority has not withdrawn proceedings in respect of the infringement notice to which the order relates.

*Unpaid infringement amount* is the amount of the modified penalty and enforcement fees specified in the order that has not been paid or recovered.

### **10 Section 17 amended**

Subclause (1) makes clear that an order to pay or elect must only relate to one registered infringement notice.

Subclause (2) amends 17(4) to allow the Registrar to issue an enforcement warrant in relation to an order to pay or elect.

### **11 Section 18 amended**

Subclause (1) replaces the notice of intention to suspend licences with a notice of intention to enforce.

Subclause (2) provides that a notice of intention to enforce must be served on the alleged offender.

Subclause (3) amends subclause 18(3) to provide that the Registrar may make a licence suspension order and, in some circumstances, issue an enforcement warrant in respect of the alleged offender.

Subclause (4) amends 18(4) so that the due date to pay or elect is no earlier than 28 days after the date of issue of the notice of intention to enforce.

Subclause (5)(b) ensures that a notice of intention to enforce –

(da) states that if the Registrar issues an enforcement warrant then –

- (i) ~~the alleged offender will no longer be able to make an election in relation to that infringement notice; and~~
  - (ii) the alleged offender must pay the penalty and fees specified in the warrant; and
- (db) states the effect an enforcement warrant will have if it is issued.

## **12 Section 19 amended**

Subclause (1) replaces the notice of intention to suspend licences with the notice of intention to enforce.

Subclause (2) amends 19(5) to provide for the ability to pursue enforcement measures further to licence suspension.

## **13 Section 20 amended**

Replaces section 20(1)(a) to allow for the additional condition that a licence suspension order may be cancelled if the amount owed is recovered under an enforcement warrant.

## **14 Section 21A inserted**

Clause 14 inserts a proposed new Section 21A to provide for the use of enforcement warrants in relation to infringements.

Subclause (1) provides that the Registrar may issue an enforcement warrant, regardless of whether a licence suspension order has been made, if:

- (a) 28 days have elapsed since the day on which a notice of intention to enforce was issued; and
- (b) the modified penalty, and enforcement fees, specified in the notice have not been paid; and
- (c) the alleged offender has not made an election; and
- (d) the aggregate unpaid infringement amount is at least:
  - (i) \$2000; or
  - (ii) A higher amount as prescribed in regulations.

Subclause (2) provides that an enforcement warrant must be in the prescribed form and directed to the Sheriff.

Subclause (3) provides that the enforcement warrant must specify the modified penalty and enforcement fees owed by the alleged offender.

Subclause (4) provides for the enforcement warrant to be carried out under Part 7 of this Act.

Subclause (5) allows the Registrar to cancel the enforcement warrant at any time for good reason.

## **15 Section 21 amended**

Subclause (1) amends 21(1) so that any election to have the matter heard by a court must be made before an enforcement warrant is issued.

## **16 Section 22 amended**

Subclause (1) amends section 22(4)(a) so that if the prosecuting authority withdraws proceedings after an enforcement warrant has been issued then the enforcement warrant is cancelled.

Subclause (2) replaces section 22(5) so that if proceedings are withdrawn under this section –

- (a) the alleged offender is to be refunded any amount paid under this Part in respect of the alleged offence; and
- (b) the alleged offender is to be paid an amount equal to the market value of any sold property under an enforcement warrant for the infringement in respect of the alleged offence; and
- (c) the alleged offender is to be paid an amount calculated in accordance with regulations for any vehicle licence cancellation order made under the enforcement warrant for in the infringement in respect of the alleged offence.

## **17 Section 27A amended**

Amends 27A(2) so that when an enforcement warrant is in place the offender cannot make a request for hardship provisions.

## **18 Section 32 replaced**

Replaces section 32 to remove the 28-day limit to either pay a fine or enter a time to pay arrangement.

Subclause (1) provides that when a fine is imposed the offender must either pay the fine, or enter a time to pay arrangement.

Subclause (2) provides that a court officer may register the fine without notice to the offender at any time on the condition that –

- (a) a fine has been imposed; and
- (b) the offender has not paid the fine; and
- (c) the offender has not applied for a time to pay order, or the offender's application for a time to pay order was refused.

## **19 Section 39 amended**

Subsection (1) has been replaced to allow a court officer to register a fine if the prosecuting authority has given the court officer a written request to do so.

## **20 Section 42 replaced**

Replaces the notice of intention to suspend licences with, **42. Notice of intention to enforce**, that informs the offender of the broader enforcement measures to which they may be subjected.

Subclause (1) allows the Registrar to issue a notice of intention to enforce when a fine is registered.

Subclause (2) ensures the notice of intention to enforce is served on the offender.

Subclause (3) makes sure the notice informs the offender that unless a fine is paid by a certain date the Registrar may:

- (a) suspend the offender's licence; and

- (b) issue the offender with an enforcement warrant; and
- ~~(c) issue the offender with an order to attend for work and development; and~~
- (d) issue the offender, in some circumstances, with a warrant of commitment.

Subclause (4) ensures the date by which a fine must be paid, which is specified in the notice, is no earlier than 28 days after the notice of intention to enforce.

Subclause (5) provides that the notice of intention to enforce must also –

- (a) state the date and time the licences suspension takes effect; and
- (b) explain that the licence will not be cancelled if the fine is paid; and
- (c) explain the effect of the licence suspension order; and
- (d) state the effect an enforcement warrant would have; and
- (e) contain such other information as is prescribed.

## **21 Section 43 amended**

Subclause (1) replaces the notice to suspend licences with a notice of intention to enforce and allows the Registrar to act regardless of whether an enforcement warrant under section 45 is in force.

Subclause (2) amends section 43(5) to replace the action of suspending licences with the ability to enact alternative enforcement measures.

## **22 Section 44 amended**

Clause 22 amends section 44 and relates to the cancelling of a licence suspension order so that a licence suspension order is cancelled when the amount owed is paid or recovered under an enforcement warrant.

## **23 Section 45 amended**

This clause deletes section 45(1),(2) and (3) and inserts:

Proposed subclause (1) that allows the Registrar to issue an enforcement warrant regardless of whether a licence suspension order is in force providing that –

- (a) 28 days have elapsed since the issue of a notice of intention to enforce; and
- (b) The amount owed has not been paid.

Proposed subclause (2) makes sure an enforcement warrant is in the prescribed form and is directed to the Sheriff.

Proposed subclause (3) makes sure that an enforcement warrant is executed under Part 7 of this Act.

## **24 Section 55A amended**

Replaces the “warrant of execution” referred to in section 55A(2)(b) with an “enforcement warrant” so that a request to suspend enforcement in certain cases of hardship cannot be made if an enforcement warrant, issued under section 45, is in force.

## **25 Part 5A inserted**

Inserts a proposed new Part 5A titled –

## **PART 5A – Publication of details of persons on website maintained by Registrar**

### **Division 1 – Preliminary**

The new Part 5A and associated sections have been inserted to enable details of certain offending persons to be published on a website maintained by the Registrar.

#### **56A – Terms used**

Defines certain terms used in this Part.

#### **56B – Outstanding registered fines**

Defines that an “outstanding registered fine” is a fine which meets the conditions outlined from 56B(a) to (h), which relates to an offender who has failed to respond to the previous enforcement measures including notice periods, enforcement fees, time to pay order, warrant of execution, work and development order and an incomplete or unsuccessful appeal result.

#### **56C – Relevant details of persons**

Describes the “relevant details” of a person, which include name, address, residential street and suburb, number of outstanding orders to pay or elect, number of outstanding registered fines and the total amount owed.

### **Division 2 – Publication of relevant details of persons on Registrar’s website**

#### **56D – Publication of relevant details of persons on Registrar’s website**

Subclause (1) provides for the Registrar to publish some or all of an offender’s details on the Registrar’s website if they have one or more outstanding orders to pay or elect or registered fines.

Subclause (2) makes sure that where the Registrar has grounds to suspect that the offender is a child or that there is an order in force prohibiting the person’s details being published then the Registrar will not publish the relevant details of the person.

Subclause (3) provides that the Registrar updates the website as soon as any changes to the person’s relevant details are known, unless there is a requirement to remove the details altogether.

#### **56E – Removal of relevant details from website**

Subclause (1) enables the Registrar to remove some or all of the person’s details from the website at any time.

Subclause (2) ensures that the Registrar removes the person’s details from the website as soon as practicable once the outstanding order to pay or elect, or outstanding registered fine ceases.

Subclause (1) creates a new subclause (1) for this Part, which relates to warrants of enforcement.

Subclause (2) deletes the definitions of “offender” and “Sheriff”

Subclause (3) introduces and defines the term “debtor” for the purposes of this Part. A debtor is someone to whom an enforcement warrant has been issued.

Subclause (4) replaces a warrant of execution issued under Part 4 or Part 6 with an enforcement warrant issued under Parts 3, 4 or 6 of the Act.

Subclause (5) inserts a subclause (2) to define what it means to remove the immobilisation of a vehicle.

## **27 Section 65 replaced**

This clause replaces section 65 “Warrant has indefinite life” with a proposed clause, of the same title, which makes clear that a warrant remains in force until –

- (a) the amount specified in the warrant, and any enforcement fees, are paid; or
- (b) the amount specified in the warrant, and any enforcement fees, are recovered; or
- (c) an order to attend for work and development is served under Part 4.

## **28 Section 68A amended**

Inserts a proposed new subclause (2A) that prevents the Sheriff from entering into an arrangement to stay a warrant of enforcement unless the debtor gives the Sheriff the debtor’s current address

## **29 Section 68B inserted**

Inserts a proposed new section **68B Notice of right to apply under s.101AA to be given for warrants issued under Part 3.**

Subclause (1) defines the term **enforcement action**, which can mean seizing personal property, seizing land, immobilising a vehicle or removing the number plates from a vehicle.

Subclause (2) provides that when the Sheriff takes the first enforcement action the Sheriff must give notice explaining that –

- (a) the debtor may apply to the Magistrate’s Court for an order cancelling the warrant; and
- (b) the application must be made within 14 days after the notice is given.

Subclause (3) makes provisions for the serving of notice on the offender so that if the first enforcement action is –

- (a) seizing personal property – a notice of seizure is served under section 80;
- (b) seizing of land – a notice served as soon as practicable after the memorial referred to under section 89 is lodged;
- (c) immobilising a vehicle – by affixing a notice to the vehicle under section 95C(4); or
- (d) removing the vehicle’s plates – by affixing a notice under section 95F(3).

## **30 Section 69 amended**

This clause inserts a proposed new section 69 that means a debtor may be ordered to attend the Magistrate's Court to be examined about any property that may be seized to repay the debt. The proposed heading of the new section is **Examination in aid of seizure or exercise of additional powers relating to vehicles.**

### **31 Section 70E amended**

Inserts a proposed new subclause 70E(4) so that if a warrant has been issued in relation to infringements, the offender's property must not be sold unless either –

- (a) 14 days have elapsed since the notice was given and no election made; or
- (b) Any application to the Magistrate's Court has been disposed of and the warrant remains in force.

### **32 Part 7 Division 6A inserted**

Inserts a proposed new

#### **Division 6A – Additional powers relating to vehicles**

##### **Subdivision 1 – General Provisions**

##### **Proposed section 95A – Application of this Division**

This Division specifically applies to warrants issued under Part 3 and 4 of the Act.

##### **Proposed section 95B. Warning notices**

Subclause (1) provides that once a warrant is issued in respect of a debtor, the Sheriff may affix a notice to the vehicle that includes information about the enforcement actions that may be taken.

Subclause (2) provides that the notice must include information about the enforcement actions that may be taken.

Subclause (3) allows the Sheriff to affix a warning notice whether or not the Sheriff has previously exercised any other powers under the warrant in relation to the vehicle.

##### **Subdivision 2 – Immobilisation of Vehicles**

##### **Proposed section 95C – Immobilisation of vehicles**

Subclause (1) entitles the Sheriff to use a warrant to immobilise a vehicle/s licensed in the offender's name using wheel clamps or another means prescribed in the regulations.

Subclause (2) makes sure that vehicles are not immobilised in a way that would contravene any written law or cause undue inconvenience to persons other than the debtor.

Subclause (3) means the vehicle must not be immobilised if the number plates have been removed and not returned to the debtor.

Subclause (4) provides that when immobilising a vehicle the Sheriff must affix a notice to the vehicle that complies with subclause (5).



Subclause (5) provides that the prescribed notice must include certain information listed in paragraphs (a) to (f), including what the debtor may do to have the immobilisation of a vehicle removed.

Subclause (6) provides that the notice may be in two parts.

### **Proposed section 95D – Removal of immobilisation of vehicle**

Subclause (1) provides that the Sheriff may remove the immobilisation at any time.

Subclause (2) qualifies subclause (1) so that the Sheriff must remove the immobilisation as soon as practicable if the warrant ceases to be in force.

### **Section 95E – Offences relating to immobilisation of vehicles**

Subclause (1) provides that it is an offence, and a penalty of \$2000 applies, if a person removes a vehicle that has been immobilised under warrant without reasonable excuse.

Subclause (2) provides that it is an offence, and a penalty of \$2000 applies, if a person interferes with or removes a wheel clamp or other immobilisation without reasonable excuse.

Subclause (3) provides that it is an offence, and a penalty of \$2000 applies, if a person interferes with or removes a notice affixed to the vehicle immobilised under warrant, without reasonable excuse.

### **Proposed subdivision 3 – removal of number plates**

#### **Section 95F – removal of number plates**

Subclause (1) provides that a warrant issued to a debtor entitles the Sheriff to remove number plates from any vehicle/s licensed in the debtor's name.

Subclause (2) provides that the number plates must not be removed if the vehicle is immobilised under a warrant.

Subclause (3) provides that if removing the number plates from a vehicle under this section, the Sheriff must affix a notice that complies with subclause (4).

Subclause (4) provides that the notice affixed to a vehicle must include certain information listed in paragraphs (a) to (g).

Subclause (5) provides that a notice under subsection (3) may be in two parts.

Subclause (6) provides that number plates that have been removed under sections 95H and 95J are to be kept in safe custody by the Sheriff.

#### **Section 95G – Vehicle licence suspension order made when number plates are removed**

The period of suspension of a vehicle licence under this section may be concurrent with other periods of suspension of the vehicle licence. It is currently common for multiple suspensions to apply to a vehicle licence simultaneously.

Subclause (1) provides that the Sheriff must make a vehicle licence suspension order for the vehicle at the time of removing the number plates.

Subclause (2) defines a vehicle licence suspension order as an order disqualifying the debtor from holding or obtaining a vehicle licence for the vehicle.

Subclause (3) provides that as soon as practicable after number plates have been removed the Sheriff—

- (a) advise the Registrar of the terms of the order; and
- (b) the Registrar must advise the Director General of the terms of the order.

Subclause (4) provides that a vehicle licence suspension order takes effect from when the number plates are removed and remains in force until it is cancelled.

Subclause (5) provides that the vehicle licence suspension order is cancelled if —

- (a) a vehicle licence suspension order is made when the number plates of a vehicle are removed; and
- (b) either —
  - (i) the warrant ceases to be in force; or
  - (ii) the number plates are returned to the debtor; or
  - (iii) a vehicle licence cancellation order is made in respect of the vehicle under 95J.

Subclause (6) provides that the Registrar must notify the Director General if the vehicle licence suspension order is cancelled, as soon as practicable.

#### **95H – Return of number plates**

Subclause (1) provides that the Sheriff may return the number plates to the offender at any time.

Subclause (2) provides that the Sheriff must return the number plates to the debtor as soon as practicable if —

- (a) the number plates have been removed under a warrant; and
- (b) the warrant ceases to be in force; and
- (c) a vehicle licence cancellation order has not been made under 95J; and
- (d) the vehicle remains licensed in the offender's name.

Subclause (3) provides that the Sheriff may return the number plates to the debtor by —

- (a) notifying the debtor in writing to collect the plates; and
- (b) ensuring the plates are available for collection at the specified time and place.

#### **95I – Offence of interfering with or removing notice**

Subclause (1) defines the term “affected vehicle”

Subclause (2) makes it an offence, carrying a penalty of a \$2000 fine, if a person interferes with, or removes, any part of a notice affixed to the vehicle under section 95F(3), unless —

- (a) the number plates have been returned to the debtor; or
- (b) where the number plates have not been returned and a vehicle licence cancellation order not yet been made.

#### **Subdivision 4 – Vehicle licence cancellation orders**

## **95J – Vehicle licence cancellation order**

Subclause (1) provides that the Sheriff may make a vehicle licence cancellation order if

- (a) the number plates have been removed;
- (b) 28 days have passed since the number plates were removed; and
- (c) the warrant remains in force.

Subclause (2) defines a vehicle licence cancellation order as an order that:

- (a) cancels a vehicle licence; and
- (b) disqualifies the debtor from holding or obtaining a vehicle licence for that vehicle.

Subclause (3) provides that if the Sheriff makes the order, the Sheriff must –

- (a) serve a copy of it on the debtor; and
- (b) advise the Registrar of the terms of the order; and
- (c) give the removed number plates to the Director General.

Subclause (4) provides that as soon as practicable after receiving advice under subsection (3) the Registrar must inform the Director General of the terms of the vehicle licence cancellation order.

Subclause (5) provides that a vehicle licence cancellation order takes effect from when it is made.

Subclause (6) provides for the cancellation of a vehicle licence cancellation order in the case that the warrant under which the order is made ceases to be in force.

Subclause (7) provides that if a vehicle licence cancellation order is cancelled under subclause (6) then the Registrar must notify the Director General of its cancellation as soon as practicable.

Subclause (8) makes clear that the making of a vehicle licence cancellation order under this section does not entitle the debtor to a refund of any fee paid in respect of the grant or renewal of licence.

### **Proposed Subdivision 5 – Powers for this Division**

#### **95K – Powers enabling immobilisation of vehicles and removal of number plates etc.**

Subclause (1) enables the Sheriff to use any force and assistance that is reasonably necessary to:

- (a) enter any place occupied by the debtor to execute the warrant;
- (b) enter any place that is not occupied by the debtor, and is not a public place, to execute the warrant;
- (c) from time to time re-enter a place described in paragraph (a) or (b) for the purpose of the warrant.

Subclauses (2)(a) and (2)(b) qualify subclauses (1)(a) and (1)(c) so that the Sheriff may enter, or re-enter, a place occupied by the debtor to exercise these powers at anytime.

Subclauses (3)(a) and (3)(b) qualify that the powers in (1)(b) and (1)(c) so that the Sheriff may enter these places at anytime but cannot enter a place not occupied by the

debtor without the consent of the occupier of the place, or if there is no occupier, the owner.

Subclauses (4)(a) and (4)(b) qualify subclause (3) so that the Sheriff may enter the places described without the consent of an occupier or owner, if that person unreasonably withholds their consent, or the Sheriff cannot contact the owner or occupier.

### **33 Section 98A inserted**

This clause inserts a new proposed section **98A. Seized property to be released if warrant ceases to be in force** which makes clear that so long as the Sheriff has not already sold seized property then it must be released as soon as practicable if a warrant ceases to be in force.

### **34 Section 101AA inserted**

This clause inserts a new section **101AA. Magistrates Court may set aside enforcement warrant issued under Part 3**

Subclause (1) defines the term “disposed of” for the purposes of this section.

Subclause (2) provides that a person to whom an enforcement warrant relates may apply to the Magistrates Court to have the warrant cancelled.

Subclause (3) makes clear the application must be no later than 14 days after the Sheriff gives the debtor notice under section 68B.

Subclause (4) provides that if an application for cancellation of the enforcement warrant has been refused the person cannot re-apply. This rule also applies to any other enforcement warrant relating to the infringement so that a person who has several warrants does not waste the court’s time by re-applying for a cancellation over each warrant.

Subclause (5) applies the Magistrates Court’s rules to the application.

Subclause (6) provides that when the Court is hearing an application for an enforcement warrant to be set aside the warrant continues to be in force but no further action can be taken on it until the Court has considered the application.

Subclause (7) provides that the onus is on the applicant to satisfy the court that none of the following notices have been received:

- (a) the infringement notice that gave rise to the warrant;
- (b) the final demand under section 14;
- (c) the order to pay or elect under section 17;
- (d) the notice of intention to enforce under section 18;
- (e) any notice confirming licence suspension under section 19(6).

Subclause (8) ensures that if the Court makes an order cancelling an enforcement warrant, then the infringement continues to exist as if the Registrar had never issued the warrant, and the ability to pay or elect is restored.

### **35 Section 101B amended**

Subclause (1) replaces section 101B(3)(d) so that if no actions have yet been undertaken in relation to an enforcement warrant, and a person appeals the fine related to the warrant, then the warrant is taken to be cancelled.

Subclause (2) ensures that no further action is taken under an enforcement warrant if a person appeals the fine relating to the warrant and either –

- (i) property has been seized; or
- (ii) a vehicle immobilised; or
- (iii) number plates removed.

Subclause (3) inserts proposed new clauses (5A), (5B) and (5C).

Proposed clause (5A) ensures that the Sheriff removes the immobilisation of the vehicle as soon as practicable after a person appeals a fine or decision that resulted in the immobilisation.

Proposed clause (5B) ensures that the Sheriff must return the number plates to a person, if a person appeals against the fine or the decision giving rise to a fine and –

- (a) subsection (4)(a) applies so that no further action is taken under the enforcement warrant; and
- (b) the number plates being removed under warrant; and
- (c) those number plates not yet being returned; and
- (d) a vehicle licence cancellation order has not been made; and
- (e) the vehicle remains licensed in that person's name.

Proposed clause (5C) ensures that when a person meets certain conditions, including that the 28 day limit to pay or elect applies to the enforcement warrant and a vehicle licence cancellation has been made, then the vehicle licence cancellation order will be cancelled. The Registrar must inform the Director General of the cancellation as soon as practicable.

### **36 Section 101C amended**

Subclause (1) inserts a proposed section (1A) which defines the term licence suspension order to include a vehicle licence suspension order made under section 95G.

Subclause (2) inserts new subsections to provide that evidence given to prove a licence suspension order includes –

- (da) that a vehicle licence cancellation order was made under this Act;
- (db) the details of the vehicle licence cancellation order and of the matter to which it relates;
- (dc) that a vehicle licence cancellation order had not, at a particular time, been cancelled to the extent that would disqualify a person from holding or obtaining a vehicle licence.

### **37 Section 101D amended.**

This section provides that non-receipt of documents does not affect the validity of certain orders and has been reworded to accommodate the inclusion of vehicle licence cancellation orders.

Subclause (1) creates a section (1A) to define the term "licence suspension order" to include a vehicle licence suspension order made under section 95G.

Subclause (2) amends section 101D(1) to include a vehicle licence cancellation order.

### **38 Section 108B inserted**

Inserts a proposed new section **108B. Amounts to be credited to agency special purpose account** to ensure that the amount credited to the Consolidated Account for enforcement fees under sections 27(2), 55(2) and 96(6), (which may be more than the amount needed for recovery under proposed section 108(8)) is to be credited to an agency special purpose account that is for the purposes of the department assisting the Minister with the administration of this Act.

### **39 Section 108 amended**

Subclause (1) amends section 108(3) to enable enforcement fees to be applied either when a licence suspension order is made or when a vehicle enforcement warrant is issued, but not twice. It also inserts a new paragraph (ea) to make a provision for a fee for issuing an enforcement warrant to be imposed on an alleged offender when the warrant is issued.

Subclause (2) replaces the reference to an offender in section 108(5) with “a debtor” as defined by section 63.

Subclause (3) inserts two new subsections.

Proposed subsection (8) allows for the amount of an enforcement fee to be prescribed and for it to be more than the amount needed for recovery.

Proposed subsection (9) ensures that subsection 8 does not apply where the regulations prescribe a fee that is only to recover costs.

### **40 Part 9 inserted**

This clause inserts a proposed new **Part 9 – Transitional and validation provisions** that provides the transitional arrangements for when parts of the *Fines, Penalties and Infringements Notices Enforcement Amendment Act 2012* will come into operation.

#### **Proposed section 110. Transitional provisions as to warrants of execution**

Subclause (1) makes sure that on the date the Act comes into operation all warrants of execution will immediately become an enforcement warrant.

Subclause (2) means that despite subsection (1) the new enforcement measures included in this Bill cannot be used to enforce a fine under a pre-existing warrant of execution.

#### **Proposed section 111. Transitional provisions as to notices of intention to suspend licences under s. 18**

Subclause (1) defines “commencement” as when the *Fines, Penalties and Infringements Notices Enforcement Amendment Act 2012* section 11 comes in to operation.

Subclause (2) provides for the immediate replacement of a “notice of intention to suspend licenses” with a “notice of intention to enforce” on the commencement of this

Act and provides for the new notice to take effect from the issue date of the original notice.

**Proposed section 112. Transitional provisions as to notices of intention to suspend licences issued under s. 42**

Subclauses (1) and (2) provide for the immediate replacement of a “notice of intention to suspend licences” with a “notice of intention to enforce” on the commencement of this Act.

**Proposed section 113. Transitional provisions as to infringement notices**

Subclause (1) defines the terms “commencement” and “transitional period”.

Subclause (2) applies this section despite any other provision of written law.

Subclause (3) ensures that any infringement notice issued before the commencement, or during the transitional period, is not invalid because it does not inform the alleged offender of the new enforcement measures applicable under these amendments to the Act.

**Proposed section 114. Validation**

Provides that regulations made, or purporting to have been made, under section 108 before the commencement of this Act are taken to be as if they have always been on the commencement of this Act.

**41 Other provisions amended**

Amends the provisions listed in the Table throughout the Act.

**PART 3 – *Equal Opportunity Act 1984* amended**

**42 Act amended**

This Part amends the *Equal Opportunity Act 1984*.

**43 Long title amended**

Amends the long title of the *Equal Opportunity Act 1984* to include the publication of details on the Fines Enforcement Registrar’s website.

**44 Section 3 amended**

Amends subsection 3(a) to include the publication of details on the Fines Enforcement Registrar’s website.

**45 Section 4 amended**

Defines the terms “Fines Enforcement Registrar” and “relevant details”.

**46 Section 5 amended**

Amends section 5 to include the new Part IVC inserted into the *Equal Opportunity Act 1984*

#### 47 Part IVC inserted

Inserts the proposed new **Part IVC – Discrimination on ground of publication of relevant details of persons on Fines Enforcement Registrar’s website** into the *Equal Opportunity Act 1984*. The new part includes proposed section 67A

##### **Division 1 - General**

**Proposed section 67A** makes it unlawful to discriminate on the grounds of the publication of relevant details of the person on the Fines Enforcement Registrar’s website, such as where the discriminator –

- (a) treats the aggrieved person differently to one who has never been convicted of an offence or had an infringement notice issued against them; or
- (b) requires the aggrieved person to comply with an unreasonable requirement or condition.

**Proposed section 67B** makes it unlawful for an employer to discriminate against a person, or an employee, on the ground of the publication of relevant details on the Fines Enforcement Registrar’s website via a range of actions as described in (1)(a)-(c) and (2)(a) to (d).

**Proposed section 67C** makes it unlawful for a principal to discriminate against a person, or a commissioner agent, on the grounds of the publication of their details on the Fines Enforcement Registrar’s website.

**Proposed section 67D** makes it unlawful to discriminate against a contract worker on the ground of the publication of relevant details on the Fines Enforcement Registrar’s website.

**Proposed section 67E** makes it unlawful for an organisation, or a committee of management of such an organisation, or member of a committee of management to discriminate against a person who is not a member of the organisation on the ground of the publication of their relevant details on the Fines Enforcement Registrar’s website.

**Proposed section 67F** makes it unlawful for an authority that is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed to practice a profession, trade, or engage in an occupation to discriminate against a person on the ground of the publication of relevant details of the person on the Fines Enforcement Registrar’s website.

**Proposed section 67G** makes it unlawful for an employment agency to discriminate against a person on the ground of the publication of relevant details on the Fines Enforcement Registrar’s website.

##### **Division 3 – Discrimination in other areas**

**Proposed section 67H** makes it unlawful for a person who provides goods or services, or makes facilities available, to discriminate against a person on the ground of the publication of relevant details on the Fines Enforcement Registrar’s website.



~~Proposed section 67I makes it unlawful for a person, whether principal or agent, to discriminate against another person on the ground of the publication of relevant details of the other person on the Fines Enforcement Registrar's website.~~

**48 Section 67 amended**

Ensures that the proposed new Part IVC is included in section 67, which relates to victimisation.

**49 Section 80 amended**

Amends section 80, which relates to the general functions of the Commissioner, to include the publication of details on the Fines Enforcement Registrar's website.

**50 Section 135 amended**

Amends section 135(1), which relates to the Tribunal's ability to grant exemptions, to include the proposed new Part IVC.

**51 Section 137 amended**

Amends section 137, which relates to the effect of exemption orders, to include the proposed new Part IVC.

**52 Section 140 amended**

Amends section 140, which regards the objectives of the Part to eliminate and ensure the absence of discrimination in the workplace, to include discrimination due to the publication of relevant details on the Fines Enforcement Registrar's website.

**PART 4 – Other Acts amended**

**Division 1 – *Criminal Investigation (Identifying People) Act 2002* amended**

**53 Act amended**

Amends the *Criminal Investigation (Identifying People) Act 2002*.

**54 Section 73 amended**

Amends section 73 of the *Criminal Investigation (Identifying People) Act 2002* to allow identifying information to be disclosed for the purposes of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

**Division 2 – *Electricity Corporations Act 2005* amended**

**55 Act amended**

Amends the *Electricity Corporations Act 2005*.

**56 Section 50A inserted**

Allows for the disclosure of information to the Registrar appointed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, to assist in ensuring that

notices are sent to the relevant person's most current address. This amendment is necessary because of the amendment to the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 10.

### **Division 3 – *Mines Safety and Inspection Act 1994* amended**

#### **57 Act Amended**

Amends the *Mines Safety and Inspection Act 1994* Act.

#### **58 Section 101F amended**

Amends section 101F of the *Mines Safety and Inspection Act 1994*, to delete the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. This amendment is consequential on the amendment to section 32, made by section 18 of this Bill, which makes it no longer relevant to when fines are taken to be imposed under the *Mines Safety and Inspection Act 1994*.

#### **59 Section 101 J amended**

Amends section 101J of the *Mines Safety and Inspection Act 1994* to remove the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act*. This amendment is consequential because section 32 is amended, under section 18 of this Bill, which makes it no longer relevant to when fines are taken to be imposed under the *Mines Safety and Inspection Act 1994*.

### **Division 4 – *Occupational Safety and Health Act 1984* amended**

#### **60 Act amended**

Amends the *Occupational Safety and Health Act 1984*.

#### **61 Section 55L amended**

Amends section 55L of the *Occupational Safety and Health Act 1984* to remove the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act*. This amendment is consequential because section 32 is amended, under section 18 of this Bill, which makes it no longer relevant to when fines are taken to be imposed under the *Occupational Safety and Health Act 1984*.

#### **62 Section 55P amended**

Amends section 55P of the *Occupational Safety and Health Act 1984* to remove the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act*. This amendment is consequential because section 32 is amended under section 18 of this Bill that makes it no longer relevant to when fines are taken to be imposed under the *Occupational Safety and Health Act 1984*.

### **Division 5 – *Parental Support and Responsibility Act 2008* amended**

#### **63 Act amended**

Amends the *Parental Support and Responsibility Act 2008*.

**64 Section 36 amended**

Subclauses (1) and (2) amend section 36 of the *Parental Support and Responsibility Act 2008*, which regards the application of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in relation to offences committed by a parent who fails to comply with a responsible parenting order, so that it refers to the proposed new notices and enforcement warrants of the amended *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

Subclause (7) ensures that the details of a person who has been fined for an offence under against section 21(1) of the *Parental Support and Responsibility Act 2008* cannot be published under Part 5A of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

**Division 6 – Rail Safety Act 2010 amended**

**65 Act amended**

Amends the *Rail Safety Act 2010*.

**66 Section 208 amended**

Amends section 208 of the *Rail Safety Act 2010* to delete the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. This amendment is consequential on the amendment to section 32 made by section 18 of this Bill that makes it no longer relevant to when fines are taken to be imposed under the *Rail Safety Act 2010*.

**67 Section 212 amended**

Amends section 212 of the *Rail Safety Act 2010* to delete the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. This amendment is consequential on the amendment to section 32 made by section 18 of this Bill that makes it no longer relevant to when fines are taken to be imposed under the *Rail Safety Act 2010*.

**Division 7 – Road Traffic Act 1974 amended**

**68 Act amended**

Amends the *Road Traffic Act 1974*.

**69 Section 17 amended**

Amends section 17(2) of the *Road Traffic Act 1974*, which provides for the Director General to only renew or transfer a licence for a vehicle if the vehicle is not subject to fines enforcement measures, this includes measures under an enforcement warrant.

**70 Section 27A amended**

Subclause (1) inserts a new subsection (2A) to the section regarding the effect of disqualification in the *Road Traffic Act 1974* so that if a vehicle licence suspension

order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G then any vehicle licence held by that person is suspended.

Subclause (2) ensures the proposed new subsection (2A) does not operate to extend the period for which a vehicle licence may be valid past its original expiration date.

Subclause (3) inserts a new section 27A(4) providing that if a vehicle licence cancellation order is made under section 95J of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, the licence of the vehicle specified in the order is cancelled.

## **Division 8 – Sentencing Act 1995 amended**

### **71 Act amended**

Amends the *Sentencing Act 1995*

### **72 Section 57A amended**

This clause amends section 57A of the *Sentencing Act 1995*, which applies to fine enforcement by means of a Work and Development Order, to replace a “warrant of execution” with an “enforcement warrant”.

### **73 Section 57B amended**

This clause amends section 57B(6) of the *Sentencing Act 1995* to delete the reference to section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. This amendment is consequential on the amendment to section 32 made by section 18 of this Bill that makes it no longer relevant to when fines are taken to be imposed under the *Sentencing Act 1995*.