

**FINES, PENALTIES and INFRINGEMENT NOTICES ENFORCEMENT  
AMENDMENT (COMPENSATION) BILL 2008**

**EXPLANATORY MEMORANDUM**

The Fines, Penalties and Infringement Notices Enforcement Amendment (Compensation) Bill 2008 (The Bill) will address an administrative error in the application of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* (WA) (the Act) during the period 2001 to 2006. The amendments are to enable persons who have spent additional periods of time in custody for fine default, or who have undertaken additional work on a work and development order, to be reimbursed.

The Bill will compensate that group of persons affected by the error in the administration of the Act and also addresses any future unforeseen events, providing fairness and a prompt action in the unlikely event of a similar administrative error.

**PART 1 PRELIMINARY**

**Clause 1 Short title**

Clause 1 provides that the Act may be cited as the Fines, Penalties and Infringement Notices Enforcement Amendment (Compensation) Act 2008 (“the Amendment Act”).

**Clause 2 Commencement**

Clause 2 provides that

- sections 1 and 2 of the Amendment Act come into operation on the day on which this Act receives the Royal Assent; and
- the rest of the Act comes into operation on a day fixed by proclamation.

**PART 2 FINES, PENALTIES AND INFRINGEMENT NOTICES  
ENFORCEMENT ACT 1994 AMENDED**

**Clause 3 The Act amended**

Clause 3 provides that the Bill amends the Act.

**Clause 4 Section 108A inserted**

**Proposed section 108A (1) and (2)** enables a credit to be allowed in circumstances where a person (the offender) who is liable to punishment by either serving default under a warrant of commitment or who may have performed a work and development order, has been punished for longer than is provided for by law.

**Proposed section 108A (3)** enables the application of the Amendment Act retrospectively. That will mean that if an incident is detected in the future for an error made prior to the commencement of operation of this Amendment Act, the remedy available by this Amendment Act will have application.

**Proposed section 108A (4)** requires the Registrar of the Fines Enforcement Registry to credit the offender with an amount of money calculated at the rate applying at the time the credit is to be paid for the imprisonment default rate (currently \$250 per day) or for work and development orders (currently \$300 per six hour work day).

**Proposed section 108A (5)** requires the Registrar of the Fines Enforcement Registry to:

- pay the offender an amount following the above calculations; or
- if the offender has outstanding court fines registered at the Fines Enforcement Registry, the Registrar must apply the credit to those outstanding amounts; or
- if the offender has outstanding infringements registered at the Fines Enforcement Registry, the Registrar must apply the credit to those outstanding amounts.

**Proposed section 108A (6)** prevents the Registrar from applying money due to an offender that has infringements until the offender's right to have the matter heard by a court has expired; that is 28 days after lodgement of any infringement at the Fines Enforcement Registry.

**Proposed section 108A (7)** provides that the State is not liable in respect any punishment inflicted as a result of an administrative error.