

Western Australia

LEGISLATIVE COUNCIL

**Acts Amendment (Fines Enforcement)  
Bill 1999**

A Bill for

An Act to amend the —

- *Fines, Penalties and Infringement Notices Enforcement Act 1994*; and
- *Sentencing Act 1995*.

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Acts Amendment (Fines Enforcement) Act 1999*.

5 **2. Commencement**

This Act comes into operation on a day fixed by proclamation.

**Part 2 — *Fines, Penalties and Infringement Notices Enforcement Act 1994***

**3. The Act amended by this Part**

5 The amendments in this Part are to the *Fines, Penalties and Infringement Notices Enforcement Act 1994*\*.

[\* *Reprinted as at 12 March 1997.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 85.]*

**4. Section 47 amended**

10 Section 47(5) is repealed.

**5. Sections 47A and 47B inserted**

After section 47 the following sections are inserted —

“

15 **47A. Order to attend for work and development may be issued ahead of other enforcement measures**

(1) Despite sections 42 to 45 and 47, at any time after a fine is registered the Registrar may issue an order to attend for work and development in respect of the offender if the Registrar is satisfied —

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(a) that the offender —

(i) does not have the means to pay the amount owed;

(ii) is not the holder of a vehicle licence;

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(iii) does not have any personal property that could be seized under a warrant of execution to satisfy, wholly or partly, the amount owed; and

**s. 5**

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- (iv) will be unlikely to have the means to pay, or personal property that could be so seized, within a reasonable time after the fine was registered;
- 5 (b) that the offender —
- (i) is the holder of a driver's licence but is disqualified from holding or obtaining such a licence; or
- (ii) is not the holder of a driver's licence;
- 10 and
- (c) that the issue of a licence suspension order has not resulted, or would be unlikely to result, in the amount owed being paid within a reasonable time after the fine was registered.
- 15 (2) An order issued under subsection (1) must be served on the offender personally.
- (3) On issuing an order under subsection (1), the Registrar must cancel —
- (a) any licence suspension order; or
- 20 (b) any warrant of execution,
- that is in force in respect of the offender in respect of the fine.

**47B. Effect of order to attend for work and development**

- 25 An order to attend for work and development issued under section 47 or 47A is an order requiring the offender, within 7 days after the service of the order —
- (a) to pay the amount owed; or

(b) to report to a community corrections centre to be assessed for the purposes of deciding whether a WDO should be made in respect of the offender.

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**6. Section 48 amended**

After section 48(2) the following subsection is inserted —

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(2a) If an offender reports to a community corrections centre pursuant to an order made under section 57A(3) of the *Sentencing Act 1995*, the CEO must make a WDO in respect of the offender and subsections (1) and (2) do not apply.

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**7. Section 53 amended**

Section 53(1) is amended as follows:

(a) by inserting after “development” —

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or with an order made under section 57A(3) of the *Sentencing Act 1995*

”;

(b) in paragraph (a) by deleting “attend” and inserting instead —

“ report ”.

### **Part 3 — Sentencing Act 1995**

#### **8. The Act amended by this Part**

The amendments in this Part are to the *Sentencing Act 1995*\*.

[\* *Act No. 76 of 1995.*

5        *For subsequent amendments see 1997 Index to Legislation of  
Western Australia, Table 1, pp. 211-12, and Acts Nos. 23, 29,  
38, 42 and 48 of 1998.]*

#### **9. Section 57 amended**

Section 57(2) is amended by inserting after “section” —

10        “ 57A, ”.

#### **10. Sections 57A and 57B inserted**

After section 57 the following sections are inserted —

“

##### **57A. Fine enforcement by means of WDO**

- 15        (1) In this section and section 57B words and expressions  
have the same definitions as in the *Fines, Penalties and  
Infringement Notices Enforcement Act 1994.*
- 20        (2) This section applies if —
- (a) a court fines an offender and does not also  
impose a term of imprisonment; and
  - (b) the offender at the time is not in custody  
serving a sentence of imprisonment.
- (3) The court, in addition to imposing the fine, may make a  
fine enforcement (WDO) order.

- (4) A fine enforcement (WDO) order is an order requiring the offender, within 7 days after the order is made —
- (a) to pay the fine in full; or
  - (b) to report to a community corrections centre to be served with a work and development order (“WDO”) in respect of the fine.
- (5) The court must not make a fine enforcement (WDO) order unless —
- (a) the offender is personally present in court;
  - (b) the court is satisfied by evidence on oath from the offender that the offender —
    - (i) does not have the means to pay the fine, either within 28 days or pursuant to a time to pay order;
    - (ii) is not the holder of a vehicle licence;
    - (iii) does not have any personal property that could be seized under a warrant of execution issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* to satisfy, wholly or partly, the fine;
    - (iv) will be unlikely to have the means to pay, or personal property that could be so seized, within a reasonable time after the fine is imposed; and
    - (v) is mentally and physically capable of performing the requirements of a WDO;
  - (c) the court is satisfied by evidence on oath from the offender that the offender —
    - (i) is the holder of a driver’s licence but is disqualified from holding or obtaining such a licence; or

**s. 10**

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- (ii) is not the holder of driver's licence;  
and
- (d) the court is satisfied that the issue of a licence suspension order under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* would be unlikely to result in the fine being paid within a reasonable time after the fine is imposed.
- (6) A fine enforcement (WDO) order must be served on the offender personally.
- (7) A fine enforcement (WDO) order may only be made during the sentencing proceedings and not afterwards.
- (8) Sections 48 to 53 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* apply to and in respect of a WDO served pursuant to a fine enforcement (WDO) order.

**57B. Court may cancel order on application of Fines Enforcement Registrar**

- (1) If under section 57A(3) a court makes a fine enforcement (WDO) order, notice of it must be given to the Registrar.
- (2) Within 28 days of the making of the order the Registrar may apply for the order to be cancelled.
- (3) The application must be made in accordance with the regulations and must be served on the offender concerned.
- (4) On an application by the Registrar, the court may cancel the order if it is satisfied, after reconsidering the matters in section 57A(5)(b) and (c), that the order should not have been made.



- (5) If the court cancels the order, the WDO made pursuant to it is to be taken to be cancelled and the fine must be paid, and may be enforced, under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.
- 5 (6) If the court cancels the order, then for the purposes of section 32 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* the fine is to be taken to have been imposed on the day when the order was cancelled.
- 10 (7) If a WDO has been wholly or partially completed at the time it is to be taken to be cancelled under subsection (5), the offender's liability to pay the fine is to be reduced in accordance with regulations made
- 15 under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

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