

EXPLANATORY MEMORANDUM

(JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION)

Fines, Penalties and Infringement Notices Enforcement Act 1994

Fines, Penalties and Infringement Notices Enforcement Amendment Regulations (No. 2) 2007

The Fines Penalties and Infringement Notices Enforcement Amendment Regulations (No. 2) 2007 have been made under the *Fines Penalties and Infringement Notices Enforcement Act 1994* 2004 to amend regulations to:

- provide for an increase of 4.8% to match CPI movements as approved by the Department of Treasury and Finance and the Expenditure Review Committee of Cabinet to apply for fee increases from 1 July 2007.

Specific amendments are as follows:

Regulation 4 ***Schedule 2 amended***

These fees relate to Enforcement activities. All fee items have been increased by 4.8% to match CPI movements approved by the Department of Treasury and Finance and the Expenditure Review Committee of Cabinet to apply from 1 July 2007.

Division 1				
Type of fee	Date last updated Increase/Decrease	Old Fee (\$)	New Fee (\$)	Increase/ Decrease (%)
1. Final demand	01.07.06 Increase	13	13.50	4.8
2. Prepare enforcement certificate	01.07.06 Increase	11	11.50	4.8
3. Register infringement notice	01.07.06 Increase	41	43	4.8
4. Issue notice of intention to suspend	01.07.06 Increase	27.50	28.50	4.8
Division 2				
1. Issue notice of intention to suspend	01.07.06 Increase	27.50	28.50	4.8
2. Issue warrant of execution	01.07.06 Increase	128	134	4.8

Division 3				
1. Attending examination per hour	01.07.06 Increase	57	59.50	4.8
3. Inspect property	01.07.06 Increase	38.50	40	4.8
4. Lodge memorial	01.07.06 Increase	41	43	4.8
5. Withdraw memorial	01.07.06 Increase	27.50	28.50	4.8
8. Arrange sale	01.07.06 Increase	135	141	4.8
10. Attend sale	01.07.06 Increase	61	63.50	4.8
11. Prepare & execute land transfer	01.07.06 Increase	135	141	4.8
12. Attend interpleader proceedings per half hour	01.07.06 Increase	19.25	20	4.8

Review of Fees and Charges

In 2006, the Office of the Auditor General (OAG) undertook an audit of fee setting practices across Government and on 30 August 2006 tabled concerns in Parliament that current court fee structures may be recovering more than 100% of the cost of providing the services.

To address these concerns and also ensure compliance with the Department of Treasury and Finance fee review process the Department of the Attorney General undertook a comprehensive review of court fees to cost the service for which fees are charged and identify any areas where over recovery of costs is occurring.

The review found that the fees charged by the Fines Enforcement Registry are in total significantly over recovering costs (325% total cost recovery in 2005-06).

While the fees are intended to cover the cost of enforcement activities they also act as an incentive to pay unpaid infringements on time and also as a penalty for late payment. Therefore unlike other fees in the court system they are not voluntarily paid for a service, but are rather imposed on an offender. Given the unique nature of these fees and the inherent incentive value for on time payment, it is considered appropriate policy for these fees to over recover costs. Legal advice from the State Solicitor's Office confirms that the over recovery of costs for these fees is (likely) legally valid.

Therefore it is proposed that these fees being increased in line with CPI effective from 1 July 2007.

Disclaimer

This explanatory note has been prepared as an aid to understanding the Regulations and must not be substituted for any part of the Regulations nor made available to the public in any manner.



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ATTORNEY GENERAL