

Western Australia

## **Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2002**

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Western Australia

LEGISLATIVE ASSEMBLY

**Fines, Penalties and Infringement Notices  
Enforcement Amendment Bill 2002**

**A Bill for**

***An Act to amend the Fines, Penalties and Infringement Notices  
Enforcement Act 1994.***

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Fines, Penalties and Infringement  
Notices Enforcement Amendment Act 2002*.

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**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**3. The Act amended**

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

[\* *Reprinted as at 2 November 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 135, and Act No. 7 of 2002.]*

10 **4. Section 7 amended**

Section 7(4) is repealed.

**5. Section 7A inserted**

After section 7 the following section is inserted —

“

15 **7A. Registrar may delegate**

(1) The Registrar may delegate to a person any power or duty of the Registrar under another provision of this Act other than —

- 20 (a) the power under section 45 to issue a warrant of execution; and  
(b) the power under section 53(1) to issue a warrant of commitment.

(2) The delegation must be in writing signed by the Registrar.

25 (3) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (4) Nothing in this section limits the ability of the Registrar to perform a function through an officer or agent.

”.

5 **6. Section 47A amended**

After section 47A(3) the following subsections are inserted —

“

- 10 (4) If a licence suspension order is cancelled under subsection (3), the Registrar must advise the Director General forthwith.
- (5) For the purposes of the *Road Traffic Act 1974*, the cancellation of a licence suspension order takes effect when the order is cancelled.

”.

15 **7. Section 55D replaced**

Section 55D is repealed and the following section is inserted instead —

“

20 **55D. Registrar may use most effective enforcement means**

- (1) If the Registrar is satisfied that —
- (a) a warrant of execution;
  - (b) an order to attend for work and development; or
  - (c) a warrant of commitment,
- 25 would be more likely than a licence suspension order or any of the other methods of enforcement referred to in paragraph (a), (b) or (c) to result in the payment or recovery of the amount owed, the Registrar may —
- (d) despite section 45(1), issue a warrant of
- 30 execution in the prescribed form;

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- (e) despite section 47(1) and (2), issue an order to attend for work and development; or
  - (f) despite section 53(1) and (2), issue a warrant of commitment.
- 5 (2) If the Registrar takes any action under subsection (1) the Registrar must cancel any other authorisation, order or warrant that has been issued in respect of the amount owed.
- 10 (3) If under subsection (1) the Registrar issues a warrant of execution, section 45(2) to (5) apply to the warrant.
- (4) If under subsection (1) the Registrar issues an order to attend for work and development, sections 47(3) to (5), 48, 49, 50, 51 and 52 apply in relation to the order.
- 15 (5) If under subsection (1) the Registrar issues a warrant of commitment, section 53(3) to (9) apply in relation to the warrant.

”.

**8. Section 63 amended**

20 Section 63 is amended by deleting the definition of “offender” and inserting the following definition instead —

“

“**offender**” means —

- (a) in the case of a warrant issued under Part 4, the offender in respect of whom it was issued;
- (b) in the case of a warrant issued under Part 6, the body corporate in respect of which it was issued;

”.

**9. Section 66 replaced**

Section 66 is repealed and the following section is inserted instead —

“

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**66. Sheriff may delegate**

(1) The Sheriff may delegate to a person any power or duty of the Sheriff under another provision of this Act.

(2) The delegation must be in writing signed by the Sheriff.

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(3) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

15

(4) Nothing in this section limits the ability of the Sheriff to perform a function through an officer or agent.

”

**10. Section 68A inserted**

After section 68 the following section is inserted —

“

20

**68A. Execution may be stayed**

(1) On receipt of a warrant, the Sheriff may stay the execution of the warrant if the offender enters into and complies with a written or oral arrangement with the Sheriff under which the offender agrees to pay the amount owed under the warrant and any enforcement fees either —

25

(a) on or before an agreed date; or

(b) by instalments on or before agreed dates,

30

in a manner, and at a place, determined by the Registrar under section 8.

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- (2) As soon as practicable after an offender enters into an oral arrangement under subsection (1), the Sheriff must serve a written version of it on the offender.
- 5 (3) A failure to comply with subsection (2) does not invalidate the arrangement or any payment made in accordance with it.
- (4) The Sheriff may at any time cancel an arrangement entered into under subsection (1) and proceed with executing the warrant or exercising the powers under section 55D.
- 10 (5) As soon as practicable after cancelling an arrangement under subsection (4), the Sheriff must serve a notice of the fact on the offender.
- (6) A failure to comply with subsection (5) does not invalidate the cancellation, any action taken in connection with executing the warrant, any action taken under section 55D, or any payment made by the offender after the cancellation.
- 15 (7) Despite the fact that the execution of a warrant is stayed under subsection (1), the Sheriff may make an application under section 69.
- 20

”.

**11. Schedule 1 amended**

Schedule 1 is amended as follows:

- 25 (a) in clause 8(6) by inserting after “behalf” —  
“ of ”;
- (b) in clause 9(2) by deleting “to” after “section may”;
- (c) in clause 9(3) by deleting “to” after “section may”.



**12. Validation**

(1) In this section —

5           **“agreement”** means an agreement or arrangement for the  
              payment of an amount owed or an amount outstanding  
              (within the meaning of sections 40 and 61 respectively of  
              the *Fines, Penalties and Infringement Notices Enforcement*  
              *Act 1994*);

**“commencement”** means the day on which this Act comes into  
              operation;

10           **“offender”** means —

              (a) an offender within the meaning of section 28; or

              (b) a body corporate referred to in section 61,  
              of the *Fines, Penalties and Infringement Notices*  
              *Enforcement Act 1994*.

15           (2) An agreement entered into, or purportedly entered into, by or on  
              behalf of the Sheriff of Western Australia with an offender  
              before the commencement has, and is deemed always to have  
              had, force and effect.

20           (3) An agreement entered into, or purportedly entered into, by a  
              delegate of the Sheriff of Western Australia with an offender  
              before the commencement has, and is deemed always to have  
              had, force and effect.

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