

Criminal Code Amendment (Infringement Notices) Bill 2010

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

**Criminal Code Amendment (Infringement
Notices) Bill 2010**

A Bill for

An Act to amend *The Criminal Code*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Criminal Code Amendment (Infringement Notices)*
3 *Act 2010*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on a day fixed by proclamation.

9 **3. *The Criminal Code* amended**

10 This Act amends *The Criminal Code*.

11 **4. Chapter LXXIII inserted**

12 At the beginning of Part VIII insert:
13

14 **Chapter LXXIII — Infringement notices**

15 **720. Term used: CP Act**

16 In this Chapter —

17 ***CP Act*** means the *Criminal Procedure Act 2004*.

18 **721. Regulations to allow infringement notices to be**
19 **issued for Code offences**

- 20 (1) This Code is taken to be a prescribed Act for the
21 purposes of the CP Act Part 2.
- 22 (2) The Governor may make regulations under this Code
23 prescribing all matters that may or must be prescribed
24 under the CP Act Part 2 to enable the CP Act Part 2 to
25 apply to and in relation to offences under this Code.

- 1 (3) Regulations made under subsection (2) —
- 2 (a) may, despite the CP Act section 5(2), prescribe
- 3 any offence under this Code to be a prescribed
- 4 offence for Part 2 of the CP Act; and
- 5 (b) may prescribe classes of person to whom an
- 6 infringement notice cannot be issued for an
- 7 alleged offence under this Code; and
- 8 (c) may prescribe circumstances in which an
- 9 infringement notice cannot be issued for an
- 10 alleged offence under this Code.

11 **722. Alleged offenders taken to be charged suspects for**

12 **purposes of *Criminal Investigation (Identifying***

13 ***People) Act 2002***

14 If under the CP Act an infringement notice is issued to

15 an alleged offender for an alleged offence under this

16 Code, then —

- 17 (a) for the purposes of the *Criminal Investigation*
- 18 *(Identifying People) Act 2002* Part 7 and
- 19 section 67 the alleged offender is taken —
- 20 (i) to be a charged suspect; and
- 21 (ii) to have been charged with the alleged
- 22 offence;
- 23 and
- 24 (b) without limiting the operation of section 67 of
- 25 that Act, identifying information obtained
- 26 under Part 7 of that Act from the alleged
- 27 offender must be destroyed if —
- 28 (i) the alleged offender pays the modified
- 29 penalty prescribed for the offence; and
- 30 (ii) destruction is requested under
- 31 section 69 of that Act by or on behalf of
- 32 the alleged offender;
- 33 and

1 (c) that Act, with any necessary changes, applies
2 accordingly.

3 **723. Monitoring of Chapter by Ombudsman**

- 4 (1) For the period of 12 months after the commencement
5 of this section, the Ombudsman is to keep under
6 scrutiny the operation of the provisions of this Chapter
7 and the regulations made under this Chapter and the
8 *Criminal Investigation (Identifying People) Act 2002*
9 Part 7 and section 67.
- 10 (2) The scrutiny referred to in subsection (1) is to include
11 review of the impact of the operation of the provisions
12 referred to in that subsection on Aboriginal and Torres
13 Strait Islander communities.
- 14 (3) For that purpose, the Ombudsman may require the
15 Commissioner of Police or any public authority to
16 provide information about police or the public
17 authority's participation in the operation of the
18 provisions referred to in subsection (1).
- 19 (4) The Ombudsman must, as soon as practicable after the
20 expiration of that 12 month period, prepare a report on
21 the Ombudsman's work and activities under this
22 section and furnish a copy of the report to the Minister
23 for Police and the Commissioner of Police.
- 24 (5) The Ombudsman may identify, and include
25 recommendations in the report to be considered by the
26 Minister about, amendments that might appropriately
27 be made to this Act with respect to the operation of the
28 provisions referred to in subsection (1).
- 29 (6) The Minister is to lay (or cause to be laid) a copy of the
30 report furnished to the Minister under this section
31 before both Houses of Parliament as soon as
32 practicable after the Minister receives the report.
33

