



New South Wales

Health Services Amendment (Ambulance Fees) Act 2014 No 60

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New South Wales

Health Services Amendment (Ambulance Fees) Act 2014 No 60

Act No 60, 2014

An Act to amend the *Health Services Act 1997* to make further provision for the charging and recovery of ambulance fees; and for related purposes. [Assented to 23 October 2014]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Health Services Amendment (Ambulance Fees) Act 2014*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Health Services Act 1997 No 154

[1] Chapter 5A, Part 1 and Part 2 (heading)

Omit section 67AA. Insert instead:

Part 1 Preliminary

67AA Definitions

In this Chapter:

ambulance fee means a fee for ambulance services charged by the Health Secretary under this Chapter.

appointed body means a committee, board or other body appointed by the Health Secretary under section 67AB.

child means a person under 16 years of age.

Commissioner means the Commissioner of Fines Administration.

debt notice means a debt notice issued by the Health Secretary under section 67Q.

fee invoice means a fee invoice issued by the Health Secretary under section 67P.

fee recovery order has the meaning given by Schedule 9.

fee review means a review of a decision to charge an ambulance fee conducted under Part 6.

payment rules means the payment rules made by the Health Secretary under section 67O.

scale of fees means the scale of fees for the provision of ambulance services fixed by the Minister under section 67L.

Part 2 Provision of ambulance services

[2] Section 67D Scale of fees

Omit the section.

[3] Section 67F Unauthorised collections

Insert at the end of section 67F (3) (c):

, or

(d) any person acting as authorised by this Act.

[4] Chapter 5A, Parts 3–7

Insert after section 67J:

Part 3 Fees for ambulance services

67K Health Secretary may charge fee for ambulance services

- (1) The Health Secretary may charge a fee for ambulance services provided by or on behalf of the Health Secretary.
- (2) An ambulance fee may be charged to any person liable for payment of the ambulance fee.

- (3) An ambulance fee is not to exceed the fee fixed for the relevant service by the scale of fees in force at the time that the fee is charged.

67L Scale of fees

The Minister may, by order published in the Gazette:

- (a) fix a scale of fees in respect of ambulance services provided by the Health Secretary, and
(b) amend or revoke any scale of fees so fixed.

67M Who is liable for payment of ambulance fee

- (1) A person is liable for payment of an ambulance fee for ambulance services provided to the person.
(2) A person is not liable for payment of an ambulance fee if the person is a child.
(3) However, if ambulance services are provided to a child, each parent or guardian of the child is jointly and severally liable for payment of an ambulance fee for the provision of those ambulance services.
(4) A parent or guardian of a child who pays an ambulance fee for the provision of ambulance services to that child is entitled to recover a contribution from any other parent or guardian who is also liable for payment of that fee.
(5) The contribution payable:
(a) is to be determined as if each parent or guardian of the child were liable for an equal share of the ambulance fee, and
(b) is recoverable as a debt in a court of competent jurisdiction.
(6) A court may reduce a person's contribution, or exempt a person from making a contribution, if the court considers it just and equitable in the circumstances.

67N Exemptions

A person is exempt from the requirement to pay an ambulance fee if:

- (a) a fee is not payable for ambulance services provided to the person under section 17 of the *Health Insurance Levies Act 1982*, or
(b) the person is the holder of a concession card of a kind prescribed by the regulations, or
(c) the person is otherwise exempt from payment under the regulations or the payment rules.

Note. Under section 17 of the *Health Insurance Levies Act 1982*, a fee is not payable if the person was, at the time the service was provided:

- (a) a contributor to a health benefits fund conducted by an organisation to which section 10 of that Act applies, or
(b) a contributor to the State Ambulance Insurance Plan.

67O Payment rules

- (1) The Health Secretary may, by order published in the Gazette, make rules about the payment of ambulance fees (*payment rules*).
(2) The payment rules may provide for the following:
(a) exemptions from the payment of ambulance fees,
(b) waiver or reduction of ambulance fees,
(c) extension of time to pay,

- (d) payment by instalments,
 - (e) fee reviews,
 - (f) any other matters permitted by this Act.
- (3) The payment rules must not be inconsistent with this Act or the regulations.

Part 4 How ambulance fees are charged

67P How fee is charged—fee invoices

- (1) The Health Secretary charges an ambulance fee by:
- (a) issuing an invoice (a *fee invoice*) for the ambulance fee, and
 - (b) serving the fee invoice on a person liable for payment of the fee.
- (2) The fee invoice must:
- (a) specify the amount of the ambulance fee and the ambulance services for which the fee is payable (including the date on which the services were provided), and
 - (b) specify a due date for payment of the ambulance fee, and
 - (c) include the required information about fee reviews, and
 - (d) include any other information that the regulations require to be included in the fee invoice.
- (3) The regulations may prescribe a form in which a fee invoice is to be given.
- (4) Information required to be included in a fee invoice may be incorporated in the fee invoice or accompany the fee invoice.

67Q Debt notice may be issued if fee not paid

- (1) If an ambulance fee specified in a fee invoice served on a person is not paid in full by the date that is 7 days after the due date for payment specified in the fee invoice, the Health Secretary may:
- (a) issue a notice (a *debt notice*) for the outstanding amount, and
 - (b) serve the debt notice on the person.
- (2) The debt notice must:
- (a) specify the amount of the ambulance fee that is unpaid and the ambulance services for which the fee is payable (including the date on which the services were provided), and
 - (b) specify a due date for payment of the ambulance fee, and
 - (c) include advice to the effect that, if the ambulance fee is not paid in full by the due date:
 - (i) the Health Secretary can refer the fee to the Commissioner for the taking of fee recovery action under Schedule 9, and
 - (ii) fee recovery costs may be payable by the person if fee recovery action is taken under that Schedule, and
 - (d) include the required information about fee reviews, and
 - (e) include advice to the effect that the Health Secretary is not required to conduct a fee review if the application for review is received after the date for payment of the ambulance fee specified in the debt notice, and
 - (f) include any other information that the regulations require to be included in the debt notice.

- (3) The date specified in a debt notice as the due date for payment of the ambulance fee has effect as the due date for payment of the ambulance fee instead of the date specified as the due date in the relevant fee invoice.
- (4) The regulations may prescribe a form in which a debt notice is to be given.
- (5) Information required to be included in a debt notice may be incorporated in the debt notice or accompany the debt notice.

67R Required information about fee reviews

For the purposes of a fee invoice or debt notice, the *required information* about fee reviews is the following information:

- (a) advice to the effect that the person served with the fee invoice or debt notice can apply for a review by the Health Secretary of the decision to charge the ambulance fee, in accordance with the payment rules, if the person seeks an exemption, waiver or reduction of the fee, extension of time to pay or to pay by instalments,
- (b) the process for applying for such a review,
- (c) the circumstances in which a person is exempt from payment of an ambulance fee under this Act or the regulations or the payment rules,
- (d) advice to the effect that any decision to waive or reduce the fee, extend the time to pay or permit payment by instalments will be made in accordance with the payment rules,
- (e) information on how a copy of the payment rules can be obtained.

67S Due date for payment of ambulance fee

- (1) The due date for payment of an ambulance fee specified in a fee invoice or debt notice must be at least 21 days after it is served on the person.
- (2) A fee invoice or debt notice served by post is not invalid merely because it specifies as the due date a date that is less than 21 days after it was served on the person.
- (3) In such a case however, the due date is extended to a date that is 21 days after the fee invoice or debt notice was served and the fee invoice or debt notice is taken to specify that date as the due date.

67T Change of payment arrangements

- (1) The Health Secretary may, in accordance with the payment rules, change the payment arrangements for an ambulance fee charged to a person by:
 - (a) reducing the amount payable, or
 - (b) extending the time to pay, or
 - (c) permitting the fee to be paid by instalments or reducing instalments.
- (2) The Health Secretary changes the payment arrangements for an ambulance fee by serving notice in writing of the change on the person who has been charged the fee.
- (3) Any fee invoice or debt notice served on the person before notice of the change is taken to be amended in accordance with the changed payment arrangements.
- (4) If the Health Secretary permits payment of an ambulance fee by instalment and an instalment of the ambulance fee is not paid by a due date for payment of an instalment, the remaining instalments immediately become payable.

- (5) The Health Secretary must not change payment arrangements for an ambulance fee after the ambulance fee has been referred to the Commissioner for the making of a fee recovery order, unless the referral is revoked.

Note. The Commissioner must withdraw a fee recovery order made in relation to an ambulance fee if the referral is revoked.

Part 5 Recovery of ambulance fees

67U Ambulance fee is debt payable to Health Secretary

- (1) An ambulance fee specified in a debt notice served on a person is recoverable by the Health Secretary as a debt in a court of competent jurisdiction.
- (2) However, the Health Secretary cannot take proceedings to recover the debt if the fee is referred to the Commissioner for the making of a fee recovery order, unless the referral is revoked.

67V Referral of fee to Commissioner for fee recovery action

- (1) The Health Secretary may, by notice in writing to the Commissioner, refer an ambulance fee to the Commissioner for the making of a fee recovery order if:
- (a) a debt notice for the ambulance fee has been served on the person charged with the fee, and
 - (b) the fee has not been paid in full by the date that is 7 days after the due date for payment specified in the debt notice.

Note. After making a fee recovery order, the Commissioner can take fee recovery action to recover the ambulance fee, and fee recovery costs, under Schedule 9.

- (2) The Health Secretary may at any time, by notice in writing to the Commissioner, revoke the referral of an ambulance fee to the Commissioner.

Note. The Commissioner must withdraw a fee recovery order made in relation to an ambulance fee if the referral is revoked.

67W Provision of information to Commissioner

- (1) The Health Secretary may, for the purpose of enabling the recovery of ambulance fees under Schedule 9, provide the following information to the Commissioner:
- (a) identifying information about a person provided with ambulance services and, if that person was a child, about any parent or guardian of the child,
 - (b) the date the service was provided,
 - (c) the time the service was provided,
 - (d) the location or pick up address at which services were provided,
 - (e) the destination to which the person was taken after pick up,
 - (f) the distance travelled as part of the service,
 - (g) the unique identifying number allocated to the service by the Health Secretary,
 - (h) any other information of a kind prescribed by the regulations.
- (2) The following information is *identifying information* about a person:
- (a) name,
 - (b) date of birth,
 - (c) gender,

- (d) address,
 - (e) contact telephone details,
 - (f) driver licence number,
 - (g) information declared to be identifying information by the regulations.
- (3) A regulation under this section is to be made only with the concurrence of the Attorney General.
- (4) The Minister administering this Act is not to recommend the making of a regulation under this section unless the Minister certifies that:
- (a) the Attorney General has concurred in the making of the regulation, and
 - (b) the Privacy Commissioner was consulted about the proposed regulation.

67X Suspension of fee recovery action

The Health Secretary may, at any time, by notice in writing to the Commissioner:

- (a) request the Commissioner to suspend fee recovery action in relation to an ambulance fee that has been referred to the Commissioner, or
- (b) request the Commissioner to revoke the suspension of fee recovery action in relation to an ambulance fee referred to the Commissioner.

Note. Under Schedule 9, the Commissioner is required to suspend fee recovery action if such a request is made.

Part 6 Fee reviews

67Y Application for review of ambulance fee

- (1) A person who is charged an ambulance fee may apply to the Health Secretary for a review of the decision to charge the ambulance fee.
- (2) An application for a review is to be made in accordance with the payment rules.
- (3) An applicant for review must provide to the Health Secretary, in support of an application, any supporting information or evidence that the payment rules require.

67Z Review by Health Secretary

- (1) If an application for a fee review is duly made to the Health Secretary, the Health Secretary must, subject to this section, conduct a review of the decision to charge an ambulance fee.
- (2) The Health Secretary is not required to conduct a review:
 - (a) if a review of the decision has already been conducted under this Part, or
 - (b) if the application is received more than 7 days after the due date for payment specified in a debt notice served on the person, or
 - (c) if the applicant has failed to provide any supporting information or evidence required to be provided by the payment rules, or
 - (d) in such other circumstances as may be prescribed by the regulations.
- (3) The Health Secretary may also conduct a review of a decision to charge an ambulance fee of his or her own motion.

67ZA Extension of time to pay—on-time review application

- (1) During the period in which an on-time review application is before the Health Secretary:
 - (a) the Health Secretary must not issue a debt notice for the ambulance fee (if a debt notice has not yet been issued) or refer the fee to the Commissioner for the making of a fee recovery order, and
 - (b) the requirement to pay the ambulance fee is suspended.
- (2) The period in which an on-time review application is before the Health Secretary is the period starting on (and including) the day on which the application is received by the Health Secretary and ending on (and including) the day on which notice of the outcome of the review application is served on the person charged the ambulance fee.

Note. Notice served by post is taken to be served on the person 7 days after it is sent, unless the person establishes otherwise.
- (3) After conducting the review or deciding not to conduct the review, the Health Secretary must change the payment arrangements for the ambulance fee by extending the time for payment of the ambulance fee by at least the number of days in the period in which the application was before the Health Secretary.
- (4) Subsection (3) does not apply if the Health Secretary decides to revoke the decision to charge the ambulance fee or waive the ambulance fee.
- (5) In this section:

on-time review application means an application for review of a decision to charge an ambulance fee that is duly made to the Health Secretary and received by the Health Secretary:

 - (a) before the issue of a debt notice for the ambulance fee, or
 - (b) no later than 7 days after the due date for payment of the ambulance fee specified in a debt notice for the ambulance fee.

Note. If the Health Secretary decides to conduct a review in relation to an application that is not an on-time review application, the Health Secretary may request the Commissioner to suspend fee recovery action in relation to the ambulance fee.

67ZB Request for additional information

- (1) The Health Secretary may, for the purpose of conducting a fee review, request additional information from an applicant for review.
- (2) The applicant must provide the additional information to the Health Secretary within 14 days of the request or within such greater period as the Health Secretary specifies.
- (3) If the information is not provided within the time specified, the review may be conducted without that information.

67ZC Actions to be taken after review

- (1) After conducting a fee review, the Health Secretary may:
 - (a) revoke the decision to charge the ambulance fee, or
 - (b) waive payment of the ambulance fee, or
 - (c) confirm the decision to charge the ambulance fee with or without changing the payment arrangements for the fee.

- (2) The Health Secretary must, after conducting a fee review, revoke the decision to charge an ambulance fee:
 - (a) if the person charged the fee is exempt from payment of the ambulance fee under this Act, the regulations or the payment rules, or
 - (b) if the issue of the fee invoice or debt notice involved a mistake of identity, or
 - (c) if the amount of the fee charged is incorrect, or
 - (d) in any circumstances prescribed by the regulations.
- (3) The Health Secretary must, after conducting a fee review, change the payment arrangements for the ambulance fee if that action is required by this Act or the payment rules.
- (4) The payment rules may also make provision for circumstances in which the Health Secretary may, at his or her discretion, revoke a decision to charge an ambulance fee, waive payment of an ambulance fee or change the payment arrangements for an ambulance fee.
- (5) If the Health Secretary revokes a decision to charge a person with an ambulance fee, or waives payment of an ambulance fee, the Health Secretary must:
 - (a) withdraw the fee invoice and any debt notice issued for the fee, and
 - (b) if the matter has already been referred to the Commissioner for the making of a fee recovery order, revoke the referral.
- (6) If a decision is revoked because of a mistake of identity, the Health Secretary may issue a new fee invoice for the fee to a person who is liable for payment of the fee.
- (7) If a decision is revoked because the amount of the fee charged was incorrect, the Health Secretary may issue a new fee invoice for the correct amount.
- (8) The regulations may provide for other circumstances in which a new fee invoice can be issued.

67ZD Notice of outcome of application

- (1) The Health Secretary is to notify an applicant for a fee review in writing of the outcome of the application within 42 days of receipt of the application.
- (2) If the Health Secretary requests additional information from the applicant, the 42-day period is extended by the number of days specified by the Health Secretary in the request as the period in which the additional information must be provided to the Health Secretary.
- (3) A reference to the outcome of an application includes a reference to a decision not to conduct a review on an application.

Part 7 Miscellaneous

67ZE Unpaid fees may be written off

- (1) The Health Secretary may write off an unpaid ambulance fee, in whole or in part.
- (2) If the ambulance fee has already been referred to the Commissioner for the making of a fee recovery order, the Health Secretary must not write off the unpaid ambulance fee unless the referral has been revoked or fee recovery action has been suspended or cancelled.

67ZF Service of notices

- (1) A fee invoice, debt notice or notice of the outcome of an application for a fee review may be served on a person personally or by post.
- (2) Any other notice or other document required to be served on a person by this Chapter may be served:
 - (a) personally, or
 - (b) by post, or
 - (c) by electronic transmission.
- (3) A notice or other document may be served by electronic transmission only if the person has consented to service of notices or other documents under this Chapter by electronic transmission. If a notice or other document is served electronically, the address for service is the address provided by the person.
- (4) It is to be presumed that a notice or other document sent to a person under this Chapter by post is served on the person 7 days after it is posted, unless the person establishes that it was not served within that 7-day period.

67ZG Form of notices given to Commissioner

Any notice given by the Health Secretary to the Commissioner under this Chapter may be given by post, by means of document exchange or by electronic transmission.

[5] Schedule 7 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Health Services Amendment (Ambulance Fees) Act 2014

Scale of fees

An order made under section 67D of this Act and in force immediately before the repeal of that section by the *Health Services Amendment (Ambulance Fees) Act 2014* is taken, on that repeal, to have been made under section 67L.

Recovery of fees for services provided before commencement

- (1) A debt notice may be issued under Part 4 of Chapter 5A in respect of an existing ambulance fee, as if a fee invoice had already been served on the person by whom the fee is payable, if:
 - (a) a notice specifying the existing ambulance fee and the person by whom it was payable was issued by or on behalf of the Health Secretary before the relevant commencement date, and
 - (b) the person by whom the fee was payable was given a copy of the notice, and
 - (c) the fee specified in the notice was not greater than the fee for the relevant ambulance services fixed by the scale of fees in force under section 67D at the time that the notice was issued, and
 - (d) the fee is not paid in full by the date that is 7 days after the due date for payment specified in the notice.
- (2) In such a case, the person is taken to have been served with a fee invoice for the purposes of this Act.

- (3) This clause does not prevent the Health Secretary from issuing a fee invoice, in accordance with Part 4 of Chapter 5A, for ambulance services provided before the relevant commencement date if the Health Secretary charges the fee after the relevant commencement date.
- (4) This clause is subject to the *Limitation Act 1969*.
- (5) In this clause:
existing ambulance fee means an ambulance fee charged by the Health Secretary before the relevant commencement date.
relevant commencement date means the date of commencement of section 67P (as inserted by the *Health Services Amendment (Ambulance Fees) Act 2014*).

Charging of parents for services provided to child

Section 67M (3), as inserted by the *Health Services Amendment (Ambulance Fees) Act 2014*, does not apply to ambulance services provided before the commencement of that subsection.

References to Health Secretary

- (1) In Chapter 5A and Schedule 9, as inserted by the *Health Services Amendment (Ambulance Fees) Act 2014*, and in this Part, a reference to the Health Secretary is a reference to the Secretary of the Ministry of Health.
- (2) A reference in this Part to anything done by or on behalf of the Health Secretary includes, in relation to anything done before the commencement of the *Government Sector Employment Act 2013*, a reference to anything done by or on behalf of the Head of the Government Department or Division responsible for charging ambulance fees for ambulance services or a delegate of the Head.

[6] Schedule 9

Insert after Schedule 8:

Schedule 9 Recovery of ambulance fees

Part 1 Preliminary

1 Definitions

- (1) In this Schedule:
approved form means a form approved by the Commissioner for the purposes of the provision in which the term is used.
Commissioner means the Commissioner of Fines Administration.
debtor means a person liable to pay an ambulance fee under a debt notice.
enforcement officer has the meaning given by clause 31.
fee recovery costs means the fee recovery costs payable under a fee recovery order, being:
 - (a) the prescribed fee recovery costs, and
 - (b) the Sheriff's additional costs (if any).*fee recovery order* means an order under clause 2.
garnishee order means an order under clause 16.

Hardship Review Board means the Hardship Review Board constituted under the *Fines Act 1996*.

order for examination means an order under clause 18.

pay an ambulance fee or amount means to pay the ambulance fee or amount in full by its due date and, if payment by instalments is permitted under this Act, includes to pay each instalment in full by its due date.

prescribed fee recovery costs means the fee recovery costs prescribed under clause 11.

property seizure order means an order under clause 15.

Sheriff's additional costs means the costs payable in respect of the Sheriff under clause 12.

- (2) Other expressions used in this Schedule that are defined in Chapter 5A have the same meaning as they have in that Chapter.

Part 2 Fee recovery orders

Division 1 Making of fee recovery orders

2 What is a fee recovery order?

- (1) The Commissioner may make an order (a **fee recovery order**) for the recovery of an ambulance fee.
- (2) A single order may be made for the recovery of 2 or more ambulance fees payable by a person.

Note. Division 2 provides for the debtor to be notified by the Commissioner of the fee recovery order and of the fee recovery action that may be taken if the outstanding balance of the ambulance fee (and fee recovery costs) is not paid within 28 days.

3 When an order may be made

- (1) The Commissioner may make a fee recovery order only if the Health Secretary refers the ambulance fee to the Commissioner for the making of a fee recovery order under Chapter 5A.
- Note.** Chapter 5A permits a referral only if the ambulance fee has not been paid within 7 days of the due date for payment.
- (2) A fee recovery order may be made in the absence of, and without notice to, the person liable to pay the ambulance fee.
- (3) The Commissioner may, but is not required to, make a fee recovery order if an ambulance fee to which it is to apply has previously been the subject of a fee recovery order in respect of which any fee recovery action has been taken.
- (4) The Commissioner is not to make a fee recovery order in relation to an ambulance fee if, before an order is made, the Health Secretary revokes the referral of the ambulance fee to the Commissioner.

4 Form of fee recovery order

A fee recovery order must specify the following matters:

- (a) the debtor's name, address and date of birth (if known),
- (b) a description of the services in respect of which the ambulance fee is payable,
- (c) the date or dates on which the services were provided,

- (d) the amount required to be paid, being the amount of the ambulance fee that remains to be paid, together with specified fee recovery costs.

Division 2 Service of fee recovery order

5 Service on debtor of notice of order

As soon as practicable after a fee recovery order is made, the Commissioner is to serve notice of the order on the debtor.

6 What notice must say

- (1) The notice of a fee recovery order must inform the debtor that:
 - (a) the order has been made, and
 - (b) the debtor has until the final date specified in the notice to pay the ambulance fee and fee recovery costs specified in the notice, and
 - (c) if the payment is not made by that final date, further fee recovery action will be taken against the debtor to recover the ambulance fee in accordance with this Schedule, and
 - (d) if the payment is not made by that final date, further fee recovery costs will be payable (indicating the amount of the prescribed fee recovery costs and the circumstances in which they are payable), and
 - (e) review options are available relating to the fee recovery order, including withdrawal, time to pay and the cancellation of fee recovery action because of hardship.
- (2) The notice of a fee recovery order may (but need not) contain information relating to the Sheriff's additional costs.
- (3) If there is an approved form for such a notice, the notice must be in that form.
- (4) The inclusion in the notice of additional information and directions for the assistance or guidance of the person on whom it is served does not affect the validity of the notice.

7 Service of notice

- (1) Notice of a fee recovery order may be served on a person:
 - (a) personally, or
 - (b) by post, or
 - (c) by electronic transmission, or
 - (d) by any other manner prescribed by the regulations.
- (2) The address for service of any such notice includes, subject to this section:
 - (a) the address supplied by the person in connection with the provision of the service for which the ambulance fee is payable, or
 - (b) the address obtained for the person by the Commissioner under this Schedule, if the Commissioner is satisfied that it is the most recent address available for the person.
- (3) Notice of a fee recovery order may be served by electronic transmission only if the person has consented to service of notices or other documents under Chapter 5A or this Schedule by electronic transmission. If the notice is served electronically, the address for service is the address provided by the person.
- (4) Despite any other provision of this Act, it is presumed that a notice of a fee recovery order sent to a person by post is served on the person 7 days after it

is posted, unless the person establishes that it was not served within that 7-day period.

8 Final date for payment in notices

- (1) The final date for payment in a notice of a fee recovery order must be at least 21 days after it is served on the person.
- (2) Accordingly, a notice that is posted may specify a date that is at least 28 days after the notice of the fee recovery order is posted as the final date for making the payment concerned.

9 Extension of final date if notice takes more than 7 days

- (1) If a notice is served on a person more than 7 days after it was posted, the notice is not invalid merely because it specifies as the final date a date that is less than 21 days after it was served on the person.
- (2) In such a case however, the final date is extended to a date that is 21 days after the notice was served and the notice is taken to specify that date as the final date.

Division 3 Cost recovery

10 Fee recovery costs to be paid

- (1) Fee recovery costs are payable under a fee recovery order.
- (2) The following amounts are the only amounts payable as fee recovery costs under a fee recovery order:
 - (a) the prescribed fee recovery costs,
 - (b) the Sheriff's additional costs (if any).
- (3) Any amount recovered in consequence of the making of a fee recovery order is to be applied firstly towards fee recovery costs and the balance towards the ambulance fee.

11 Prescribed fee recovery costs

- (1) The regulations may prescribe the fee recovery costs payable under a fee recovery order.
- (2) The regulations may:
 - (a) prescribe an amount as the fee recovery costs payable to the Commissioner on the making of the order, and
 - (b) prescribe an amount as the fee recovery costs payable into the Consolidated Fund for any fee recovery action taken by the Sheriff or other official under Part 3 before payment is made under the order.

12 Sheriff's additional costs

- (1) The Commissioner may approve any costs and expenses reasonably incurred by the Sheriff in taking fee recovery action under Part 3 as fee recovery costs payable by the debtor under the fee recovery order.
- (2) The amount of those costs and expenses is to be determined in accordance with the scale applicable to the enforcement of judgment debts under the *Civil Procedure Act 2005*, but is to be reduced by the prescribed fee recovery costs payable to the Consolidated Fund for any fee recovery action taken by the Sheriff or other official under Part 3.

- (3) For the purposes of this clause, the Commissioner has the functions of the registrar of the relevant court with respect to the approval of those costs and expenses.
- (4) Fee recovery costs recoverable under this clause are payable to the Sheriff and not to the Consolidated Fund.
- (5) The power of the Local Court to review a decision of a registrar of the court in respect of any such fee recovery costs applies to a decision of the Commissioner under this clause.

13 Fee recovery costs included in ambulance fee

- (1) After a fee recovery order is made, the ambulance fee to which it applies is taken to include the fee recovery costs payable under the fee recovery order.
- (2) Accordingly, a reference in Parts 3–6 to an *ambulance fee* includes a reference to any fee recovery costs payable under the fee recovery order.

Part 3 Fee recovery action

Division 1 Fee recovery action

14 When fee recovery action can be taken

- (1) Fee recovery action may be taken against a debtor under this Part if:
 - (a) the debtor has not paid the ambulance fee as required by the notice of the fee recovery order served on the debtor, and
 - (b) the ambulance fee remains unpaid.
- (2) Fee recovery action may be taken under this Part by means of a property seizure order, a garnishee order or a charge on land, or by all or any combination of those means.

15 Order to seize property of debtor

- (1) The Commissioner may make an order for the seizure of the property of a debtor for the purpose of levying the ambulance fee payable by the debtor on that property. The order is called a *property seizure order*.
Note. The *Interpretation Act 1987* defines property to include land as well as personal property.
- (2) The Commissioner may make a property seizure order only if satisfied that fee recovery action is authorised against the debtor under this Part.
- (3) Section 72 of the *Fines Act 1996* applies in relation to a property seizure order made under this clause in the same way as it applies in relation to a property seizure order made under that section.

16 Order to garnishee debts, wages or salary of debtor

- (1) The Commissioner may make an order that all debts due and accruing to a debtor from any person specified in the order are attached for the purposes of satisfying the ambulance fee payable by the debtor (including an order expressed to be for the continuous attachment of the wage or salary of the debtor). The order is called a *garnishee order*.
- (2) The Commissioner may make a garnishee order only if satisfied that fee recovery action is authorised against the debtor under this Part.

- (3) Section 73 of the *Fines Act 1996* applies in relation to a garnishee order made under this clause in the same way as it applies in relation to a garnishee order made under that section.

17 Registration of fee recovery order as charge on land

- (1) The Commissioner may apply to the Registrar-General for registration of a fee recovery order in relation to any land owned by the debtor (including any land owned jointly with another person).
- (2) An application may not be made under this clause unless the amount payable under the order (or the total amount payable under the orders) to which the application relates exceeds \$1,000 or such other amount as is prescribed by the regulations.
- (3) Section 74 of the *Fines Act 1996* applies in relation to an application under this clause, and a charge registered under this clause, in the same way as it applies to an application under that section, and a charge registered under that section.

Division 2 Ancillary provisions

18 Examination of debtor

- (1) The Commissioner may issue an order (an *order for examination*) under this clause for the purpose of enabling fee recovery action to be taken under this Part.
- (2) If a person who is issued with an order for examination fails to attend in accordance with the order, the Commissioner may issue a warrant for the apprehension of the person and for the person to be brought before the Commissioner or other specified enforcement officer, or before a specified officer of a court, for examination in accordance with this clause.
- (3) Sections 75 and 75A of the *Fines Act 1996* apply in relation to an order for examination, an examination, or warrant of apprehension under this clause in the same way as they apply in relation to an order for examination, examination or warrant for apprehension under those sections.

19 Power of entry to execute property seizure order

- (1) The person executing a property seizure order may, at any reasonable time of the day or night, enter any premises for the purposes of executing the order.
- (2) Subclause (1) does not authorise any such person to enter any part of premises used only for residential purposes without the permission of the occupier of the premises or the authority of a search warrant under this clause.
- (3) Any such person may apply to an authorised officer for the issue of a search warrant if the person believes on reasonable grounds that there may be property liable to seizure under the property seizure order in any premises.
- (4) An authorised officer to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any person who is executing the property seizure order to enter the premises and seize property in the premises in accordance with that or any other property seizure order.
- (5) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this clause.

- (6) Without affecting the generality of section 71 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, a police officer:
 - (a) may accompany a person executing a search warrant, and
 - (b) may take all reasonable steps to assist the person in the exercise of the person's functions under this clause.
- (7) This clause does not authorise a person to seize property under any warrant of execution or order (other than a property seizure order) while the person is in premises in pursuance only of the authority conferred by this clause.
- (8) In this clause:

authorised officer has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

premises includes any structure, building, aircraft, vehicle, vessel or place (whether built upon or not).

20 Power of person executing order or warrant to demand name and address

- (1) The Sheriff or other person executing an order or warrant under this Part may require a person whom the Sheriff or other person suspects on reasonable grounds to be the debtor to state his or her full name and residential address and to produce evidence of his or her identity.
- (2) A person is not required to comply with such a requirement unless the person was warned on that occasion that a failure to comply is an offence.
- (3) A person who, without reasonable excuse, fails to comply with such a requirement is guilty of an offence.
Maximum penalty: 10 penalty units.

21 Electronic transmission of documents

- (1) The following directions, orders and warrants under this Part may be transmitted electronically to the persons to whom they are given or directed:
 - (a) a property seizure order directed to the Sheriff,
 - (b) a garnishee order, or a summons requiring a garnishee under such a garnishee order to show cause, given to the Sheriff for service,
 - (c) an order for examination given to the Sheriff for service,
 - (d) a warrant of apprehension directed to the Sheriff.
- (2) For the purpose of executing any such order or warrant, the Sheriff or other officer to whom the order or warrant is so transmitted is to cause a copy of the order or warrant to be converted into written form and to be endorsed with the following words:

This document has been transmitted electronically by the Commissioner of Fines Administration in accordance with clause 21 of Schedule 9 to the *Health Services Act 1997*.

Part 4 Suspension, withdrawal and cancellation of fee recovery action

22 Fee recovery action may be suspended

- (1) The Commissioner may make an order (a **suspension order**) for the suspension of fee recovery action in relation to an ambulance fee referred to

- the Commissioner by the Health Secretary if the Commissioner is satisfied that:
- (a) the person charged with the ambulance fee may be exempt from payment of the ambulance fee under Chapter 5A, or
 - (b) the matter should be referred back to the Health Secretary for some other reason.
- (2) A suspension order must be made if the Health Secretary requests the making of the suspension order.
 - (3) A suspension order may be made:
 - (a) before or after the making of a fee recovery order, and
 - (b) on application or on the Commissioner's own initiative.
 - (4) While a suspension order has effect:
 - (a) a fee recovery order is not to be made in relation to the ambulance fee, and
 - (b) if a fee recovery order has already been made in relation to the ambulance fee, any fee recovery action already taken in relation to the order is to be suspended.
 - (5) Fee recovery action is to be suspended as follows:
 - (a) any property seizure order that has already been made in relation to the ambulance fee that has not been executed is to be cancelled,
 - (b) any garnishee order that has already been made in relation to the ambulance fee is to be cancelled.
 - (6) However, any property obtained as a result of fee recovery action is not required to be returned, and a charge on land created under Part 3 need not be cancelled, unless the relevant fee recovery order is withdrawn.
 - (7) A suspension order has effect until the Commissioner revokes the suspension order or the Health Secretary revokes the referral of the ambulance fee to the Commissioner (whichever happens first).

Note. The Commissioner must withdraw any fee recovery order that has been made and reverse any fee recovery action taken if the referral of the fee to the Commissioner is revoked.
 - (8) The Commissioner may revoke a suspension order only if the Health Secretary requests the revocation of the suspension order.
 - (9) The Commissioner must give notice in writing of the making or revocation of a suspension order:
 - (a) to the Health Secretary, and
 - (b) to the Sheriff, but only if a property seizure order has already been made in relation to the ambulance fee.
 - (10) The suspension of fee recovery action does not prevent further fee recovery action being taken after the suspension has ceased to have effect.

23 Withdrawal of order and reversal of fee recovery action

- (1) The Commissioner may, on application or on the Commissioner's own initiative, withdraw a fee recovery order if satisfied that:
 - (a) the person named in the fee recovery order is exempt from payment of an ambulance fee specified in the order under Chapter 5A, or

- (b) the person was not aware that a debt notice had been issued before the fee recovery order was served, or
 - (c) the person was otherwise hindered by accident, illness, misadventure or other cause from taking action in relation to the debt notice, or
 - (d) an ambulance fee to which it applies has previously been the subject of a fee recovery order in respect of which any fee recovery action has been taken, or
 - (e) the person named in the fee recovery order is not the person by whom the ambulance fee is payable, or
 - (f) the order was otherwise made in error.
- (2) The Commissioner must withdraw a fee recovery order in relation to an ambulance fee if the Health Secretary revokes the referral of the ambulance fee to the Commissioner.
- (3) A fee recovery order may be withdrawn completely or only to the extent of some of the amount or amounts to which it applies.
- (4) If a fee recovery order is withdrawn completely:
- (a) the order then ceases to have effect, and
 - (b) any fee recovery action already taken is to be reversed, unless the same recovery action is authorised under another fee recovery order, and
 - (c) fee recovery costs are not payable under the order and, if paid, are repayable.
- (5) If a fee recovery order is withdrawn only to the extent of some of the amount or amounts to which it applies:
- (a) the order continues to have effect in respect of the remaining amount or amounts to which it applies, and
 - (b) any amount that has been paid under the order is to be applied to payment of the remaining amount or amounts to which it applies and any fee recovery costs payable under the order.
- (6) The withdrawal of a fee recovery order does not prevent the making of a further fee recovery order in respect of the ambulance fee.

24 Cancellation of fee recovery action generally

- (1) The Commissioner may cancel any or all fee recovery action in respect of an ambulance fee at any time for any good reason.
- (2) The Commissioner cancels fee recovery action by cancelling a property seizure order, garnishee order or charge on land in respect of the ambulance fee.
- (3) A property seizure order, garnishee order or charge on land under this Part is taken to be cancelled on the payment of the ambulance fee concerned.
- (4) The cancellation of a charge on land does not take effect until the Registrar-General registers the cancellation of the charge.
- (5) The Commissioner must give the Health Secretary notice in writing of a decision to cancel fee recovery action in respect of an ambulance fee.

Part 5 Hardship and time to pay

25 Cancellation of fee recovery action because of hardship

- (1) The Commissioner may, on the application of a debtor or at the Commissioner's own discretion, cancel fee recovery action in respect of the whole or part of an unpaid ambulance fee if satisfied that, due to any or all of the financial, medical or personal circumstances of the debtor:
 - (a) the debtor does not have sufficient means to pay the ambulance fee and is not likely to have sufficient means to pay the ambulance fee, and
 - (b) fee recovery action has not been or is unlikely to be successful in satisfying the ambulance fee.
- (2) The Commissioner must cancel fee recovery action in respect of the whole or part of an unpaid ambulance fee if directed to do so by the Hardship Review Board.
- (3) This section does not prevent the Commissioner from making a further fee recovery order for an unpaid ambulance fee at any time within 5 years after the fee recovery action is cancelled under this clause if:
 - (a) the Health Secretary again refers the matter to the Commissioner for the making of a fee recovery order, and
 - (b) the Commissioner is satisfied that the debtor has sufficient means to pay the ambulance fee and that fee recovery action is likely to be successful in satisfying the ambulance fee.

26 Time to pay

- (1) A debtor may apply to the Commissioner for time to pay an ambulance fee any time after a fee recovery order is made.
- (2) The Commissioner may, by order, allow further time to pay the ambulance fee if satisfied the application is genuine and it appears expedient to do so.
- (3) Section 100 of the *Fines Act 1996* applies in relation to an order made under this clause in the same way as it applies in relation to an order made under that section.

27 Functions of Hardship Review Board

- (1) The Hardship Review Board has the same functions with respect to ambulance fees as it has with respect to fines under the *Fines Act 1996*.
- (2) Section 101B of the *Fines Act 1996* applies in relation to reviews by the Hardship Review Board under this Schedule in the same way as it applies in relation to reviews by the Hardship Review Board under that Act.
- (3) The Hardship Review Board, a member of the Board, or a person otherwise engaged in the administration of this clause, may disclose to the Commissioner, or any other person engaged in the administration of this Schedule, information obtained in the administration of this clause.

Part 6 Administration

28 Form of notices

Any notice given by the Commissioner to the Health Secretary under this Schedule may be given by post, by means of document exchange or by electronic transmission.

29 Arrangements with Health Secretary

- (1) The Commissioner may enter into arrangements with the Health Secretary for the payment to the Health Secretary of ambulance fees that are recovered under this Schedule.
- (2) The arrangements may permit the Commissioner to deduct or retain from any amount paid to the Health Secretary a fee or payment for services provided under this Schedule.
- (3) An ambulance fee recovered under this Schedule is, when recovered, payable in accordance with those arrangements.
- (4) This clause does not affect the requirements of this Schedule with respect to the payment of fee recovery costs.

30 Delegation

- (1) The Commissioner may delegate to any person employed in the Public Service any function of the Commissioner under this Act, other than this power of delegation.
- (2) The Commissioner may delegate to any person any of the following functions of the Commissioner:
 - (a) the function of serving notice of a fee recovery order on a debtor,
 - (b) the function of serving (but not issuing) an order for examination.

31 Exercise of enforcement functions

- (1) An enforcement function may be exercised by the Commissioner or by any person employed in the Public Service who is authorised by the Commissioner to exercise that function.
- (2) A person authorised to exercise enforcement functions is an *enforcement officer* for the purposes of this Schedule.
- (3) The Commissioner and any enforcement officers have, in the exercise of enforcement functions, the same protection and immunities as officers of a court.
- (4) In this clause, *enforcement function* means a function of the Commissioner of making or issuing an order or warrant under this Schedule.

32 Disclosure of information

- (1) The Commissioner, or any other person engaged in the administration of this Schedule, may disclose personal information obtained in relation to a person in the administration or execution of this Schedule or Chapter 5A:
 - (a) in connection with the administration or execution of this Schedule or Chapter 5A (including for the purpose of the recovery of an ambulance fee), or
 - (b) to the Health Secretary or a delegate of the Health Secretary for the purposes of the administration or execution of Chapter 5A, or
 - (c) with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates, or
 - (d) to the Hardship Review Board, or
 - (e) as authorised or required by or under this Act or any other Act or law.

- (2) Without limiting subclause (1) (a), personal information may be disclosed to an employer or past employer of a debtor for the purposes of the administration, enforcement or execution of a garnishee order.
- (3) A person engaged in the administration of this Schedule must not disclose any personal information obtained in relation to any person in the administration or execution of this Schedule or Chapter 5A except as authorised or required by this Act or any other Act or law.
Maximum penalty: 100 penalty units.
- (4) In this clause:
personal information means personal information under the *Privacy and Personal Information Protection Act 1998* or personal information that is health information under the *Health Records and Information Privacy Act 2002*.

33 Administrative provisions of Fines Act 1996 apply

- (1) The administrative provisions of the *Fines Act 1996* apply in respect of the exercise of functions under this Schedule in the same way as they apply in respect of the exercise of functions under that Act.
- (2) In this clause, the *administrative provisions* of the *Fines Act 1996* are:
 - (a) section 102, and
 - (b) Part 8, except sections 116A, 116B, 117A and 117B.

34 Interpretation of Fines Act 1996 provisions that are applied by this Schedule

- (1) A provision of this Schedule that applies a provision of the *Fines Act 1996* is to be read subject to the modifications set out in this clause and to any other modifications necessary or required under this Act.
- (2) For the purposes of any such provision, a reference in the *Fines Act 1996*:
 - (a) to the *Fines Act 1996* or a provision of that Act includes a reference to this Schedule or a corresponding provision of this Schedule, and
 - (b) to a fine, fine defaulter or fine enforcement order includes a reference to an ambulance fee, debtor or fee recovery order respectively, and
 - (c) to enforcement action or other action in respect of a fine includes a reference to fee recovery action or other action in respect of an ambulance fee, and
 - (d) to the writing off of an unpaid fine includes a reference to the cancellation of fee recovery action in respect of an unpaid ambulance fee, and
 - (e) to an order under that Act includes a reference to a corresponding order under this Schedule, and
 - (f) to an authorised officer under that Act includes a reference to an enforcement officer under this Schedule, and
 - (g) to the regulations under that Act includes a reference to the regulations under this Schedule, and
 - (h) to a person engaged in the administration of that Act includes a reference to a person engaged in the administration of this Schedule.
- (3) References to work and development orders and combined payment arrangements are to be disregarded.

Schedule 2 Amendment of other Acts

2.1 Fines Act 1996 No 99

Section 115 Use of name “State Debt Recovery”

Insert “or any other Act” after “Act” in section 115 (4).

2.2 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 2 Search warrants under other Acts

Insert in alphabetical order:

Health Services Act 1997, clause 19 of Schedule 9

[Second reading speech made in—
Legislative Assembly on 28 May 2014
Legislative Council on 15 October 2014]