



New South Wales

Fines Regulation 2005

under the

Fines Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fines Act 1996*.

MORRIS IEMMA, M.P.,
Treasurer

Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Fines Regulation 1997*, which is to be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for the following matters connected with the administration of the *Fines Act 1996* (**the Act**):

- (a) the enforcement costs relating to fines imposed by courts (Part 2),
- (b) matters relating to penalty notices (Part 3), including:
 - (i) the enforcement costs relating to fines imposed by penalty notices (clause 5), and
 - (ii) the fees for an application to annul a penalty notice enforcement order and for an application to review the State Debt Recovery Office's decision on such an application, and the time within which such an application for review may be made (clauses 6 and 7),
- (c) the forms that community service orders, warrants of commitment and periodic detention orders relating to fine defaulters are to take, and the forms of notices of those orders and warrants that are to be served on the fine defaulters concerned (Part 4 and Schedule 1),
- (d) the declaration of reciprocating courts for the purposes of the reciprocal enforcement of fines against bodies corporate (Part 5),
- (e) a savings provision (Part 6).

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Explanatory note

This Regulation also contains matters of a formal nature (Part 1).

This Regulation is made under the *Fines Act 1996*, including section 128 (the general regulation-making power) and the various other sections mentioned in the Regulation.

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Clause 1 Fines Regulation 2005

Part 1 Preliminary

Fines Regulation 2005

under the

Fines Act 1996

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Fines Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Fines Regulation 1997* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Fines Act 1996*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

Part 2 Fines imposed by courts

4 Enforcement costs under court fine enforcement orders: section 16

- (1) The following enforcement costs are payable under a court fine enforcement order:
- (a) \$50 (or, if the fine defaulter concerned was under the age of 18 years at the time of the offence or alleged offence, \$25), payable to the State Debt Recovery Office on the making of the order,
 - (b) \$40, payable to the Roads and Traffic Authority if any enforcement action is taken by that Authority under Division 3 of Part 4 of the Act before payment is made under the order,
 - (c) \$50, payable into the Consolidated Fund if any enforcement action is taken by the Sheriff or other official under Division 4 of Part 4 of the Act before payment is made under the order.

Note. See section 102A of the *Fines Act 1996* in relation to the liability for enforcement costs for persons under the age of 18.

- (2) The enforcement costs referred to in subclause (1) (c):
- (a) apply to each of the following kinds of enforcement action:
 - (i) the making of a property seizure order against a fine defaulter, as referred to in section 72 (1) of the Act,
 - (ii) the making of a garnishee order against a fine defaulter, as referred to in section 73 (1) of the Act,
 - (iii) an application to register a fine enforcement order as a charge on land held by a fine defaulter, as referred to in section 74 (1) of the Act,
 - (iv) the issue of an examination summons against a fine defaulter, as referred to in section 75 (1) of the Act,
 - (v) the issue of a warrant for the apprehension of a fine defaulter who fails to attend in accordance with an examination summons, as referred to in section 75 (7) of the Act, and
 - (b) are to be paid to the State Debt Recovery Office for payment into the Consolidated Fund.

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Clause 5 Fines Regulation 2005

Part 3 Penalty notices

Part 3 Penalty notices

5 Enforcement costs under penalty notice enforcement orders: section 44

- (1) The following enforcement costs are payable under a penalty notice enforcement order:
- (a) \$50 (or, if the fine defaulter concerned was under the age of 18 years at the time of the offence or alleged offence, \$25), payable to the State Debt Recovery Office on the making of the order,
 - (b) \$40, payable to the Roads and Traffic Authority if any enforcement action is taken by that Authority under Division 3 of Part 4 of the Act before payment is made under the order,
 - (c) \$50, payable into the Consolidated Fund if any enforcement action is taken by the Sheriff or other official under Division 4 of Part 4 of the Act before payment is made under the order.

Note. See section 102A of the *Fines Act 1996* in relation to the liability for enforcement costs for persons under the age of 18.

- (2) The enforcement costs referred to in subclause (1) (c):
- (a) apply to each of the following kinds of enforcement action:
 - (i) the making of a property seizure order against a fine defaulter, as referred to in section 72 (1) of the Act,
 - (ii) the making of a garnishee order against a fine defaulter, as referred to in section 73 (1) of the Act,
 - (iii) an application to register a fine enforcement order as a charge on land held by a fine defaulter, as referred to in section 74 (1) of the Act,
 - (iv) the issue of an examination summons against a fine defaulter, as referred to in section 75 (1) of the Act,
 - (v) the issue of a warrant for the apprehension of a fine defaulter who fails to attend in accordance with an examination summons, as referred to in section 75 (7) of the Act, and
 - (b) are to be paid to the State Debt Recovery Office for payment into the Consolidated Fund.

6 Applications for annulment of penalty notice enforcement orders: section 48

- (1) An application fee of \$50 is payable in relation to an application to the State Debt Recovery Office for annulment of a penalty notice enforcement order.

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- (2) The State Debt Recovery Office may waive, postpone or remit the application fee payable under this clause in such circumstances as it considers appropriate.

7 Applications to Local Court for redetermination of applications for annulment of penalty notice enforcement orders: section 50

- (1) An application fee of \$50 is payable in relation to an application under section 50 of the Act to have an application for annulment determined by a Local Court.
- (2) The registrar of the Local Court with which any such application is lodged may waive, postpone or remit the application fee payable under this clause in such circumstances as the registrar considers appropriate.

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Clause 8 Fines Regulation 2005

Part 4 Fine enforcement action

Part 4 Fine enforcement action

8 Community service orders: section 79

- (1) A community service order under section 79 of the Act must be reduced to writing using Form 1.
- (2) For the purposes of section 80 (2) of the Act, the notice of a community service order is to be in Form 2.

9 Warrants of commitment: section 87

For the purposes of section 87 (2A) (a) of the Act, a warrant of commitment to imprisonment is to be in:

- (a) Form 3, where the imprisonment is to be served by way of full-time detention, or
- (b) Form 4, where the imprisonment is to be served by way of periodic detention.

10 Periodic detention orders: section 89

- (1) A periodic detention order under section 89 of the Act must be reduced to writing using Form 5.
- (2) For the purposes of section 89A (2) of the Act, the notice of a periodic detention order is to be in Form 6.

Part 5 Reciprocal enforcement of fines against bodies corporate

11 Declaration of reciprocating court: section 106

For the purposes of section 106 of the Act, the following courts (or classes of courts) are declared to be reciprocating courts (or classes of reciprocating courts):

- (a) Magistrates Courts of Queensland,
- (b) Magistrates Courts of South Australia,
- (c) Magistrates Courts of Tasmania,
- (d) Magistrates Courts of Victoria,
- (e) Magistrates Courts of Western Australia,
- (f) Magistrates Courts of the Australian Capital Territory,
- (g) Courts of Summary Jurisdiction of the Northern Territory.

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Clause 12 Fines Regulation 2005

Part 6 Miscellaneous

Part 6 Miscellaneous

12 Saving

Any Act, matter or thing that, immediately before the repeal of the *Fines Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Forms

(Clause 3)

Form 1 Community service order

(Clause 8 (1))

(Fines Act 1996, section 79)

1 Offence details

Case/Penalty Notice* No:

Conviction/Issue* Date:

Convicting Court/Issuing Authority*:

Fine defaulter:

Date of Birth:

Offence:

* *Delete inappropriate words, depending on whether or not the relevant fine was imposed by a Court*

Particulars of community service imposed by State Debt Recovery Office

Number of hours' community service work: *[number]*

(to include *[number]* hours' participation in a personal development, educational or other program)*.

*The above sentence is to be served cumulatively on the sentence of *[number]* hours' community service work that commenced on *[date]*.

2 Standard conditions

Pursuant to section 79 (6) (b) of the *Fines Act 1996*, this order is subject to the conditions prescribed by the regulations under the *Crimes (Administration of Sentences) Act 1999*.

Note. A copy of the standard conditions must be attached to this order.

3 Additional conditions

The order is also subject to the following conditions: *[state conditions]*

Date of order:

Signed (Justice of the Peace):

Date:

* *Delete if not applicable*

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Schedule 1 Forms

Form 2 Notice of community service order

(Clause 8 (2))

(Fines Act 1996, section 80)

TO [name]

of [address]

WHEREAS a fine of \$ [amount] was imposed on you by Penalty Notice No [number] in respect of the following offence: [state offence],

AND WHEREAS a fine enforcement order was served on you on [date] in respect of that fine,

AND WHEREAS an amount of \$ [amount] remains unpaid in respect of that fine,

AND WHEREAS the State Debt Recovery Office has, under section 79 of the *Fines Act 1996*, made a community service order requiring you to work off the amount of the fine that remains unpaid by performing [number] hours' community service work (to include [number] hours' participation in a personal development, educational or other program)*,

YOU ARE HEREBY GIVEN NOTICE that you have been ordered to report in person to [place] at [date] in the State of New South Wales within the period of [number] days from the date of this notice for the purpose of enabling the administration of the order to be commenced.

Signed (Justice of the Peace):

Signature of fine defaulter:

Date:

* *Delete if not applicable*

Form 3 Warrant of commitment to correctional centre

(Clause 9 (a))

(Fines Act 1996, section 87)

TO THE GOVERNOR of the correctional centre at [address] in the State of New South Wales

WHEREAS a fine of \$ [amount] was imposed on [name] (**the fine defaulter**) of [address] by Penalty Notice No [number] in respect of the following offence: [state offence],

AND WHEREAS the State Debt Recovery Office has revoked a community service order under Division 5 of Part 4 of the *Fines Act 1996* in relation to the unpaid amount of the fine imposed in respect of that offence,

AND WHEREAS the State Debt Recovery Office has further determined that, for failing to comply with that order, the fine defaulter be imprisoned for a period of [state period], to commence on [date], in accordance with Division 6 of Part 4 of the *Fines Act 1996*,

YOU ARE HEREBY DIRECTED to receive the fine defaulter into your custody there and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to detain the fine defaulter there by way of full-time detention for that period.

Signed (Justice of the Peace):

Date:

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 87 of the *Fines Act 1996*, this warrant is sufficient authority for you to convey the fine defaulter named in this warrant to the correctional centre specified in this warrant and to deliver the fine defaulter into the custody of the governor of that correctional centre.

Signed (Justice of the Peace):

Date:

Form 4 Warrant of commitment to periodic detention centre

(Clause 9 (b))

(Fines Act 1996, section 87)

TO THE GOVERNOR responsible for the periodic detention centre at [address] in the State of New South Wales,

WHEREAS a fine of \$ [amount] was imposed on [name] (**the fine defaulter**) of [address] by Penalty Notice No [number] in respect of the following offence: [state offence],

AND WHEREAS the State Debt Recovery Office has revoked a community service order under Division 5 of Part 4 of the *Fines Act 1996* in relation to the unpaid amount of the fine imposed in respect of that offence,

AND WHEREAS the State Debt Recovery Office has further determined that, for failing to comply with that order, the fine defaulter be imprisoned for a period of [state period], to commence on [date], in accordance with Division 6 of Part 4 of the *Fines Act 1996*,

AND WHEREAS the Commissioner of Corrective Services has, under section 89 of the *Fines Act 1996*, ordered that the term of imprisonment be served by way of periodic detention,

YOU ARE HEREBY DIRECTED to receive the fine defaulter into your custody there and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to imprison the fine defaulter there by way of periodic detention for that period.

Signed (Justice of the Peace):

Date:

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Schedule 1 Forms

Form 5 Periodic detention order

(Clause 10 (1))

(Fines Act 1996, section 89)

1 Offence details

Case/Penalty Notice* No:

Conviction/Issue* Date:

Convicting Court/Issuing Authority*:

Fine defaulter:

Date of Birth:

Offence:

** Delete inappropriate words, depending on whether or not the relevant fine was imposed by a Court*

Particulars of imprisonment imposed by State Debt Recovery Office

Term of: [*state term*]

to commence on: [*date*]

It is hereby ordered that the above term of imprisonment is to be served by way of periodic detention in accordance with the *Crimes (Administration of Sentences) Act 1999*.

Date of order:

Signed (Commissioner of Corrective Services):

Date:

** Delete if not applicable*

Form 6 Notice of periodic detention order

(Clause 10 (2))

(Fines Act 1996, section 89A)

TO [*name*]

of [*address*]

WHEREAS a fine of \$ [*amount*] was imposed on you by Penalty Notice No [*number*] in respect of the following offence: [*state offence*],

AND WHEREAS a fine enforcement order was served on you on [*date*] in respect of that fine,

AND WHEREAS an amount of \$ [*amount*] remains unpaid in respect of that fine,

AND WHEREAS the State Debt Recovery Office has, under section 79 of the *Fines Act 1996*, made a community service order requiring you to work off the amount of that fine that remains unpaid by performing [*number*] hours' community service work,

AND WHEREAS the State Debt Recovery Office has revoked the community service order under Division 5 of Part 4 of the *Fines Act 1996* in relation to that unpaid amount of that fine, AND WHEREAS the State Debt Recovery Office has further determined that, for failing to comply with that order, you be imprisoned for a period of *[state period]*, to commence on *[date]*, in accordance with Division 6 of Part 4 of the *Fines Act 1996*,

AND WHEREAS the Commissioner of Corrective Services has, under section 89 of the *Fines Act 1996*, ordered that the term of imprisonment be served by way of periodic detention,

YOU ARE HEREBY GIVEN NOTICE that you have been ordered to report in person to the officer in charge of the periodic detention centre at *[address]* in the State of New South Wales at *[address]* on *[date]* and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to the same place at *[address]* on *[date]* each subsequent week during the term of your sentence.

Signed (Commissioner of Corrective Services):

Signature of fine defaulter:

Date: