



New South Wales

# Fines Regulation 2010

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*.

ERIC ROOZENDAAL, MLC  
Treasurer

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Fines Regulation 2005*, which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) enforcement costs and application fees and the waiver, postponement or refund of any such costs or fees,
- (b) the trial period for work and development orders and the maximum number of such orders that may be made during that trial period,
- (c) the courts of other Australian jurisdictions that are reciprocating courts,
- (d) savings and formal matters.

This Regulation is made under the *Fines Act 1996*, including sections 16 (1), 44 (1), 57 (4), 99B (4), 99J (2), 106 and 128 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Fines Regulation 2010

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## **Fines Regulation 2010**

under the

Fines Act 1996

### **Part 1 Preliminary**

#### **1 Name of Regulation**

This Regulation is the *Fines Regulation 2010*.

#### **2 Commencement**

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Fines Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### **3 Definition**

- (1) In this Regulation:  
*the Act* means the *Fines Act 1996*.
- (2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4 Fines Regulation 2010

Part 2 Enforcement costs and fees

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### Part 2 Enforcement costs and fees

#### 4 Enforcement costs

- (1) For the purposes of sections 16 (1) and 44 (1) of the Act, the costs payable under a fine enforcement order are as follows:
  - (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) No amount is payable under subclause (1) (a) if the fine enforcement order is made under section 14 (1A) or 42 (1AA) of the Act.
- (3) 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.

**5 Annulment of penalty notice enforcement orders—SDRO**

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.

**6 SDRO may waive, postpone or refund costs and fees**

- (1) The State Debt Recovery Office may, in such circumstances as it considers appropriate, waive, postpone or refund all or part of any enforcement costs or application fees payable under this Part.
- (2) For the purposes of section 57 (4) of the Act, an application fee that has been postponed under this clause in relation to a penalty notice enforcement order is prescribed as a fine unless the order is annulled.
- (3) Any such fee is to be added to, and payable as part of, the fine to which the penalty notice enforcement order relates.

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Clause 7 Fines Regulation 2010

Part 3 Miscellaneous

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### Part 3 Miscellaneous

#### 7 Trial period for work and development orders

- (1) For the purposes of section 99J (2) of the Act, an application for a work and development order cannot be made after 10 July 2011.
- (2) For the purposes of section 99B (4) of the Act, the maximum number of work and development orders that may be made in the period ending on 10 July 2011 is 2000.
- (3) If more than one work and development order is made in respect of the same person, those orders are to count as one order for the purposes of subclause (2).

#### 8 Declaration of reciprocating court

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

#### 9 Saving

Any act, matter or thing that, immediately before the repeal of the *Fines Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.