



New South Wales

Fines Regulation 2020

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*.

DAMIEN TUDEHOPE, MLC
Minister for Finance and Small Business

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Fines Regulation 2015*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following—

- (a) enforcement costs and the waiver, postponement or refund of those costs,
- (b) prescribe certain offences as vehicle or vessel offences for the purposes of section 38 of the *Fines Act 1996*,
- (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), 38(4), 44(1), 106, 108J(1)(a) 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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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Fines Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Fines Regulation 2015*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation—

the Act means the *Fines Act 1996*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Enforcement costs

4 Enforcement costs

- (1) For the purposes of sections 16(1), 44(1) and 108J(1)(a) of the Act, the enforcement costs payable under a fine enforcement order or an interstate fine enforcement order, within the meaning of section 108C(1) of the Act, are as follows—
- (a) \$65 (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 Commissioner on the making of the order,
 - (b) \$40, payable to Transport for NSW if any enforcement action is taken by Transport for NSW under Division 3 of Part 4 of the Act before payment is made under the order,
 - (c) \$65, payable into the Consolidated Fund if any civil enforcement action is taken by the Sheriff, Commissioner 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 Act in relation to the liability for enforcement costs for persons under the age of 18 years.

- (2) The enforcement costs referred to in subclause (1)(c)—
- (a) apply to each of the following kinds of civil 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 in relation to any land owned by a fine defaulter, as referred to in section 74(1) of the Act,
 - (iv) the issue of an order for examination 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 order for examination, as referred to in section 75A(1) of the Act, and
 - (b) are to be paid to the Commissioner for payment into the Consolidated Fund.

5 Waiver, postponement or refund of costs

- (1) The Commissioner may, in the circumstances the Commissioner considers appropriate, waive, postpone or refund all or part of any enforcement costs payable under this Part.
- (2) In the case of a court fine enforcement order made in accordance with section 14(1B) of the Act, or a penalty notice enforcement order made in accordance with section 42(1AA) of the Act, the Commissioner must—
- (a) postpone the costs payable under clause 4(1)(a), and
 - (b) waive those costs if the orders are complied with.

Part 3 Miscellaneous

6 Vehicle offences

For the purposes of paragraph (q) of the definition of *vehicle or vessel offence* in section 38(4) of the Act, the offences referred to in clauses 7 and 32 of the *Protection of the Environment Operations (Noise Control) Regulation 2017* are prescribed.

7 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) the Local Court of the Northern Territory.

8 Repeal and savings

- (1) The *Fines Regulation 2015* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Fines Regulation 2015*, had effect under that Regulation continues to have effect under this Regulation.