

CRIMINAL PROCEDURE (FINES) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Criminal Procedure Act 1986 so as to enact legislation which is reciprocal with legislation enacted by the other States and the Territories of the Commonwealth and thereby:

- (a) to facilitate the enforcement of a fine imposed on a body corporate by a court which exercises summary jurisdiction of another State or a Territory against property of the body corporate in New South Wales; and
- (b) to facilitate the enforcement of a fine imposed on a body corporate by a New South Wales court which exercises summary jurisdiction against property of the body corporate in another State or a Territory.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day to be proclaimed.

Clause 3 amends the Principal Act to insert a new Part 8 - Reciprocal enforcement of fines against bodies corporate. The new Part contains the following provisions:

Proposed section 25 contains definitions for the purposes of the new Part. The definition of "conviction" is expressed to apply to a conviction whether imposed before or after the commencement of the new Part.

Proposed section 26 enables the Minister, by notice in the Gazette, to declare a court which exercises summary jurisdiction of a State or Territory to be a reciprocating court if the State or Territory has laws providing for the enforcement in the State or Territory of a New South Wales fine against a body corporate.

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Proposed section 27 enables the relevant officer of a reciprocating court, if a fine payable in respect of the conviction by the reciprocating court of a body corporate remains unpaid, to have the conviction registered by the registrar of the New South Wales Local Court for the district in which the body corporate has or appears to have property. The conviction, on registration, is to have effect as if it were a civil judgment of the Local Court. On registration of the conviction, the registrar of the Local Court is required to issue a writ of execution for the purpose of recovering the unpaid amount of the fine.

The proposed section provides for the procedures to be observed if, after the receipt of a request for the registration of a conviction, the whole or a part of the fine is paid either to the relevant officer of the reciprocating court or to the registrar of the Local Court.

Proposed section 28 provides that a payment received by the registrar of a New South Wales court from a reciprocating court in satisfaction of the whole or a part of a New South Wales fine against a body corporate is to be applied as if it had been paid by the body corporate.

Proposed section 29 requires the registrar of a New South Wales court to notify the relevant officer of a reciprocating court in which the recovery of a New South Wales fine imposed against a body corporate by the court is being enforced of any payment received by the registrar in satisfaction of the whole or a part of the fine.
