

[Act 1997 No 121]



New South Wales

Fines Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Fines Act 1996* so as:

- (a) to allow the registrar of a court to vary the court to which a fine is to be paid, and
 - (b) to exclude fine enforcement action involving the suspension or cancellation of a fine defaulter's driver's licence, or the refusal to issue or renew a driver's licence, in the case of a fine imposed while the fine defaulter was under the age of 18 years and not the holder of a driver's licence, and
 - (c) to ensure that the maximum number of hours of community service work that a person under the age of 18 years can be required to perform is 100 hours, and that such a person can perform work under several such orders concurrently, and
 - (d) to apply the provisions of Division 2 of Part 2 (which relate to the payment of fines imposed by a court) to the payment of ancillary orders made by a court (such as orders for costs and compensation), and
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- (e) to exclude adults who are serving periods of imprisonment and children who are serving periods of detention from the transitional amnesty period that the Act provides for existing fine defaulters, and
- (f) to allow the regulations to establish a separate fine enforcement regime, for a transitional period of 2 years only, in relation to fines imposed under the laws of the Commonwealth and in relation to fine defaulters who reside outside New South Wales.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Fines Act 1996* set out in Schedule 1.

Schedule 1 Amendment of Fines Act 1996

Variation of court to which fine payable

It is proposed to amend section 8 to allow the registrar of a court to vary the court to which a fine is payable (Schedule 1 [1]). A consequential amendment is proposed for section 13 to allow the fine to be referred for a court fine enforcement order by the registrar of the court to whom the fine becomes payable as a result of such a variation (Schedule 1 [2]).

Payment of fines to the RTA

It is proposed to amend section 65 so as to make it clear that the State Debt Recovery Office must cancel any direction it has given to the Roads and Traffic Authority with respect to enforcement action under Division 3 of Part 4 of the Act (action involving the suspension or cancellation of drivers' licences and vehicle registrations) as soon as practicable after it receives payment of the whole of the amount payable under the fine enforcement order to which the direction relates (Schedule 1 [3]; proposed section 65 (4)). Consequential amendments are proposed for section 66 (3) (Schedule 1 [4]) and section 68 (4) (Schedule I [8]).

Enforcement action under Division 3 of Part 4 with respect to unlicensed young offenders

It is proposed to amend section 65 so as to prevent the Roads and Traffic Authority from suspending or cancelling a fine defaulter's driver's licence, or from refusing to issue or renew a driver's licence for a fine defaulter, if the fine defaulter was under the age of 18 years and not the holder of a driver's licence when the fine was imposed or the relevant penalty notice was served (Schedule 1 [3]: proposed section 65 (3)). A consequential amendment is proposed for section 71 to ensure that enforcement action under Division 4 of Part 4 (civil enforcement against the fine defaulter's property) can be taken (Schedule 1 [9]).

Children's community service orders

It is proposed to amend section 81 so as to ensure that the maximum number of hours of community service work that a person under the age of 18 years can be required to perform is 100 hours (Schedule 1 [10]), and that such a person can perform work under several such orders concurrently (Schedule 1 [11]). A consequential amendment is proposed to define *adult* and *child* for the purposes of section 81 (Schedule 1 [12]).

Enforcement of ancillary money orders

It is proposed to insert a new section 109A to apply the provisions of Division 2 of Part 2 (which relate to the payment of fines imposed by a court) to the payment of ancillary orders imposed by a court (such as orders for costs and compensation) (Schedule 1 [14]). Consequential amendments are proposed to be made to section 109 (Schedule 1 [13]) and section 110 (Schedule 1 [15]).

Exclusion of convicted prisoners etc from transitional amnesty period

Clause 2 of Schedule 3 provides for a transitional amnesty period during which existing warrants for the commitment of fine defaulters to prison are not to be executed. It is proposed to amend that clause so as to exclude convicted inmates (within the meaning of the *Correctional Centres Act 1952*) and persons subject to control (within the meaning of the *Children (Detention Centres) Act 1987*) from the amnesty, so allowing them to "cut out" their outstanding fines while serving their current sentences (Schedule 1[17]).

Fine enforcement regime for fine defaulters under Commonwealth laws and fine defaulters living outside New South Wales

It is proposed to insert a new clause 5A into Schedule 3 (the Schedule of savings and transitional provisions) so as to allow the regulations to establish a separate fine enforcement regime, for a transitional period of 2 years only, in relation to fines imposed under the laws of the Commonwealth and in relation to fine defaulters who reside outside New South Wales (Schedule 1 [19]).

Miscellaneous

The following amendments are also proposed:

- amendments to clarify the operation of section 68 (Schedule 1 [5], [6] and [7]),
- an amendment to enable savings and transitional regulations to be made in connection with the enactment of the proposed Act (Schedule 1 [16]),
- amendments to clarify the operation of certain savings and transitional provisions (Schedule 1 [18]).