

# Fines Regulation 1997 (1998 SI 8)

[1998-8]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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New South Wales

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# Fines Regulation 1997 (1998 SI 8)



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Fines Regulation 1997*.

### 2 Commencement

This Regulation commences on 27 January 1998.

### 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.

### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

## Part 2 Fines imposed by courts

### 5, 6 (Repealed)

### 7 Enforcement costs under court fine enforcement orders: section 16

(1) The following enforcement costs are payable under a court fine enforcement order:

(a) \$50, 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.

(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.

## **8 Court fine enforcement orders: section 18**

(1) An unpaid fine may be referred to the State Debt Recovery Office for the making of a court fine enforcement order:

- (a) by post, or
- (b) by means of a document exchange, or
- (c) by facsimile transmission or other electronic transmission.

(2) A court fine enforcement order is to be issued in a form that specifies:

- (a) the fine defaulter's name, address and date of birth (if known), and
- (b) in relation to each fine to which the order relates:
  - (i) a description of the offence in respect of which the fine was imposed, together with the date of the offence,
  - (ii) the date on which the fine was imposed,
  - (iii) the amount of the fine that remains to be paid (as required by section 15 (1) of the Act), and
- (c) the amount of the enforcement costs payable in connection with the making of the

order (as required by section 15 (1) of the Act).

### **Part 3 Penalty notices**

#### **9, 10 (Repealed)**

#### **11 Statutory provision under which penalty notices issued: section 20**

Section 127A of the *Environmental Planning and Assessment Act 1979* is specified for the purposes of section 20 of the Act.

#### **12 Vehicle or vessel offences: section 38**

- (1) The following devices are prescribed for the purposes of paragraph (b) of the definition of **vehicle or vessel offence** in section 38 (4) of the Act:
- An approved camera detection device within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*.
  - An approved speed measuring device within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*.
- (2) Offences to which the following statutory provisions apply (being offences committed in relation to a vehicle or vessel) are prescribed offences for the purposes of paragraph (c) of the definition of **vehicle or vessel offence** in section 38 (4) of the Act:
- *Bicentennial Park Trust Act 1987*, section 22
  - *Centennial Park and Moore Park Trust Act 1983*, section 23
  - *Crown Lands Act 1989*, section 161
  - *Forestry Act 1916*, section 38C
  - *Impounding Act 1993*, section 32A
  - *Local Government Act 1993*, section 651
  - *Maritime Services Act 1935*, section 30C
  - *National Parks and Wildlife Act 1974*, section 159
  - *Parramatta Park Trust Act 2001*, section 29
  - *Road Transport (General) Act 1999*, section 43
  - *Roads Act 1993*, section 244
  - *Royal Botanic Gardens and Domain Trust Act 1980*, section 22A

- *State Sports Centre Trust Act 1984*, section 20A
- *Transport Administration Act 1988*, section 116

### **13 Enforcement costs under penalty notice enforcement orders: section 44**

- (1) The following enforcement costs are payable under a penalty notice enforcement order:
  - (a) \$50, 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.
- (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.

### **14 Penalty notice enforcement orders: section 47**

A penalty notice enforcement order is to be issued in a form that specifies:

- (a) the fine defaulter's name, address and date of birth (if known), and
- (b) in relation to each fine to which the order relates:

- (i) a description of the offence in respect of which the relevant penalty notice was served, together with the date of the offence,
- (ii) the amount of the fine that remains to be paid (as required by section 43 (1) of the Act), and
- (c) the amount of the enforcement costs payable in connection with the making of the order (as required by section 43 (1) of the Act).

**15 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.
- (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.

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

- (1) An application for annulment of a penalty notice enforcement order that has been made to the State Debt Recovery Office (the **original application**) may not be the subject of an application to have that application determined by a Local Court (the **renewed application**) unless the renewed application is made within 28 days after the date on which the original application is determined by the State Debt Recovery Office.
- (2) An application fee of \$50 is payable in relation to the renewed application.
- (3) The registrar of the Local Court to which a renewed application is lodged may waive, postpone or remit the application fee payable under this clause in such circumstances as the registrar considers appropriate.

**Part 4 Fine enforcement action**

**17 Suspension of dealings with Roads and Traffic Authority: section 68**

The following functions are prescribed for the purposes of section 68 of the Act, as referred to in subsection (2) (f) of that section, as functions that the Roads and Traffic Authority must refuse to exercise if that section applies to a fine defaulter:

- (a) the issuing of an unregistered vehicle permit to the fine defaulter,
- (b) the registration of a motor vehicle in the name of the fine defaulter, or the renewal of registration of a motor vehicle in the name of the fine defaulter, under the [Recreation Vehicles Act 1983](#),
- (c) the issuing of trader's plates to a fine defaulter,



- (d) the processing of a number plate exchange for the fine defaulter,
- (e) the reservation of a particular number plate for the fine defaulter,
- (f) the ordering of a particular number plate, or a particular design of number plate, for the fine defaulter,
- (g) the testing of the fine defaulter to ascertain the fine defaulter's eligibility for a driver's licence,
- (h) the booking of a driving test for the fine defaulter.

**17A 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) A copy of the order is to be given to the offender, and a further copy is to be sent to the Commissioner of Corrective Services.
- (3) A notice referred to in section 93 (1) of the *Crimes (Sentencing Procedure) Act 1999*, as applied by section 79 of the *Fines Act 1996*, must be in Form 2.
- (4) The offender must sign 3 copies of the notice in the presence of the person by whom it was given to the offender.
- (5) Of the 3 copies:
  - (a) one is to be kept by the offender, and
  - (b) one is to be kept by the Commissioner of Corrective Services, and
  - (c) one is to be kept by the State Debt Recovery Office.
- (6) The regulations made for the purposes of Part 5 of the *Crimes (Administration of Sentences) Act 1999*, as applied by section 79 of the *Fines Act 1996*, apply to a community service order made under section 79 of the *Fines Act 1996* in the same way as they apply to a community service order made under section 8 of the *Crimes (Sentencing Procedure) Act 1999*.

**18 Service of community service orders: section 80**

For the purposes of section 80 (1) of the Act, a community service order is given to a fine defaulter in accordance with the regulations if it is served on the fine defaulter personally.

**19 Explanation of community service orders to fine defaulters: section 85**

The explanation of a community service order to be given to a fine defaulter under section 85 (2) of the Act must include information, in language likely to be understood by the fine defaulter, as to the following matters:

- (a) the requirements to be complied with by the fine defaulter under the order,
- (b) the consequences that may follow if the fine defaulter fails to comply with those requirements,
- (c) the fact that the order may be satisfied by payment of such part of the fine as has not been satisfied by the performance of community service work under the order.

## **20 Periodic detention: section 89**

For the purposes of section 89 (3) (e) of the Act, a fine defaulter is not eligible to serve a period of imprisonment by way of periodic detention in circumstances in which an earlier order for periodic detention (whether under the *Fines Act 1996* or the *Periodic Detention of Prisoners Act 1981*) has been revoked because the fine defaulter has failed to serve a sentence of imprisonment in accordance with the requirements of the order.

## **20A Warrants of commitment: section 87**

For the purposes of section 87 (1) 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.

## **20B 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) A copy of the order is to be given to the offender, and further copies are to be sent to:
  - (a) the State Debt Recovery Office, and
  - (b) the governor for the periodic detention centre to which the offender is committed to serve the sentence.
- (3) A notice referred to in section 72 (1) of the *Crimes (Sentencing Procedure) Act 1999*, as applied by section 89 of the *Fines Act 1996*, must be in Form 6.
- (4) The offender must sign 3 copies of the notice in the presence of the person by whom it was given to the offender.
- (5) Of the 3 copies:
  - (a) one is to be kept by the offender, and
  - (b) one is to be kept by the governor responsible for the periodic detention centre to which the offender is committed, and

(c) one is to be kept by the Commissioner of Corrective Services.

(6) The regulations made for the purposes of Part 3 of the *Crimes (Administration of Sentences) Act 1999*, as applied by section 89 of the *Fines Act 1996*, apply to a periodic detention order made under section 89 of the *Fines Act 1996* in the same way as they apply to a periodic detention order made under section 6 of the *Crimes (Sentencing Procedure) Act 1999*.

## **21 Endorsement of electronically transmitted orders and warrants: section 103**

For the purposes of section 103 (2) of the Act, a written copy of an order or warrant that has been transmitted electronically must be endorsed with the following words:

This document has been transmitted electronically by the State Debt Recovery Office in accordance with section 103 of the *Fines Act 1996*.

## **Part 5 Reciprocal enforcement of fines against bodies corporate**

### **22 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):

- Magistrates Courts of Queensland
- Courts of Summary Jurisdiction of South Australia
- Courts of Summary Jurisdiction of Tasmania
- Magistrates' Courts of Victoria
- Courts of Petty Sessions of Western Australia
- Magistrates Courts of the Australian Capital Territory
- Courts of Summary Jurisdiction of the Northern Territory

## **Part 6 Civil enforcement—costs and other payments**

### **23 (Repealed)**

## **Part 7 Savings and transitional provisions**

### **24 Forfeited recognizances and bail**

(1) Pending the commencement of clause 9 of Schedule 3 to the Act, the *Forfeited Recognizances and Bail Act 1954* continues to apply to any recognizance or bail money forfeited under that or any other Act as if the *Fines Act 1996* had not been enacted.

- (2) This clause ceases to have effect on the commencement of clause 9 of Schedule 3 to the Act.

## 25 Continuation of former fine enforcement legislation in certain circumstances

- (1) In this clause, **former fine enforcement legislation** means the provisions of the following Acts, as those Acts were in force immediately before 27 January 1998:
- (a) the *Children (Community Service Orders) Act 1987*,
  - (b) the *Children (Criminal Proceedings) Act 1987*,
  - (c) the *Community Service Orders Act 1979*,
  - (d) the *Crimes Act 1900*,
  - (e) the *Criminal Procedure Act 1986*,
  - (f) the *Forfeited Recognizances and Bail Act 1954*,
  - (g) the *Justices Act 1902* (except section 87 (4)),
  - (h) the *Periodic Detention of Prisoners Act 1981*,
  - (i) the *Traffic Act 1909*.
- (2) The former fine enforcement legislation continues to apply to and in respect of:
- (a) (Repealed)
  - (b) any fine imposed with respect to an offence arising under the laws of New South Wales, being an offence the subject of an order in force under subclause (3).
- (3) An order declaring that a fine imposed with respect to an offence arising under the laws of New South Wales is to be enforced in accordance with the former fine enforcement legislation (an **interstate resident order**) may be made as follows:
- (a) in the case of a fine imposed by a court, such an order may be made by the registrar of the court at any time before the matter is referred to the State Debt Recovery Office under section 13 of the Act, or
  - (b) in the case of any fine (whether or not imposed by a court), such an order may be made by the State Debt Recovery Office at any time after the relevant fine enforcement order is made.
- (4) An interstate resident order may be made only if the registrar or State Debt Recovery Office, as the case may be, is of the opinion that the person on whom the relevant fine has been imposed does not reside, or no longer resides, in New South Wales.
- (5) As soon as practicable after it makes an interstate resident order, the State Debt

Recovery Office must cause the order, together with a copy of the relevant fine enforcement order, to be lodged with the registrar of a Local Court.

- (6) A fine enforcement order that is lodged with the registrar of a Local Court in accordance with subclause (5) (being a fine enforcement order that, in accordance with section 116 (2) of the Act, has been made by the Director of the State Debt Recovery Office or some other member of staff of the Office who is a justice of the peace):
- (a) in the case of a court fine enforcement order, is taken to be a warrant of commitment made in that Local Court under section 87 of the *Justices Act 1902* (as in force immediately before 27 January 1998), or
  - (b) in the case of a penalty notice enforcement order, is taken to be an enforcement order made in that Local Court under section 100L of the *Justices Act 1902* (as in force immediately before 27 January 1998).
- (7) The registrar of the Local Court in which a fine enforcement order has been lodged in accordance with subclause (5) may at any time revoke the associated interstate resident order if of the opinion that the person on whom the relevant fine has been imposed is residing in New South Wales.
- (8) On the revocation of an interstate resident order, the warrant of commitment or enforcement order that the fine enforcement order is taken to have become by operation of subclause (6) is taken instead to be the court fine enforcement order or penalty notice enforcement order that it was immediately before the interstate resident order was made, and Part 5 of the Act applies accordingly.
- (9) This clause ceases to have effect on 1 January 2001.

## **26 Construction of reference in section 11AB of the *Traffic Act 1909***

The reference in section 11AB (3) (b) of the *Traffic Act 1909* to an order made under section 100L of the *Justices Act 1902* is to be construed as a reference to a penalty notice enforcement order made under the *Fines Act 1996*, and extends to a penalty notice enforcement order referred to in clause 5 (5) of Schedule 3 to the *Fines Act 1996*.

## **27 (Repealed)**

## **Schedule 1 Forms**

(Clause 3)

### **Form 1**

**COMMUNITY SERVICE ORDER**

(Fines Act 1996, section 79)

**1 Sentence details**

Case No: .....  
Conviction Date: .....  
The Court at: .....  
Offender: .....  
Date of Birth: .....  
Offence: .....

**Particulars of community service imposed by State Debt Recovery Office**

Number of hours' community service work: .....  
(to include ..... hours' participation in a personal development, educational or other program)\*.

\*The above sentence is to be served cumulatively on the sentence of ..... hours' community service work:  
.....  
that commenced on: .....

**2 Standard conditions**

Pursuant to section 79 (6) 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:  
.....  
.....

Date of order:

Signed: ..... Date: .....  
(Justice of the Peace)

\* delete if not applicable

**Form 2**

**NOTICE OF COMMUNITY SERVICE ORDER**

(Fines Act 1996, section 79, and Crimes (Sentencing Procedure) Act 1999, section 93)

TO .....  
of .....

WHEREAS you were, on ..... convicted in the ..... Court at ..... of the following offence:  
.....

AND WHEREAS a fine of \$..... was imposed on you in respect of that offence,  
AND WHEREAS an amount of \$..... 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 ..... hours' community service work (to include ..... 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 ..... at ..... in the State of New South Wales within the period of ..... days from the date of this notice for the purpose of enabling the administration of the order to be commenced.

.....Justice of the Peace

Signature of offender: .....

Date: .....

\* delete if not applicable.

### Form 3

(Clause 20A)

#### WARRANT OF COMMITMENT TO CORRECTIONAL CENTRE

(*Fines Act 1996*, section 87)

TO THE GOVERNOR of the correctional centre at ..... in the State of New South Wales

WHEREAS ..... of ..... (***the offender***) has been found guilty by the ..... Court of the following 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 that offence,

AND WHEREAS the State Debt Recovery Office has further determined that the offender be imprisoned for that offence for a period of ....., to commence on ....., in accordance with Division 6 of Part 4 of the *Fines Act 1996*,

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

.....Justice of the Peace

Date: .....

TO ALL POLICE OFFICERS in the State of New South Wales

By virtue of section 62 of the *Crimes (Sentencing Procedure) Act 1999*, this warrant is sufficient authority for you to convey the offender named in this warrant to the correctional centre specified in this warrant and to deliver the offender into the custody of the governor of that correctional centre.

.....Justice of the Peace

Date: .....

### Form 4

(Clause 20A)

#### WARRANT OF COMMITMENT TO PERIODIC DETENTION CENTRE

(*Fines Act 1996*, section 87)

TO the governor responsible for the periodic detention centre at ..... in the State of New South Wales,

WHEREAS ..... of ..... (**the offender**) has been found guilty by the ..... Court of the following 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 that offence,

AND WHEREAS the State Debt Recovery Office has further determined that the offender be imprisoned for that offence for a period of ....., to commence on ....., 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 offender into your custody there and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to imprison the offender there by way of periodic detention for the term of the offender's sentence.

.....Justice of the Peace

Date: .....

### Form 5

(Clause 20B)

#### PERIODIC DETENTION ORDER

(*Fines Act 1996*, section 89)

#### 1 Sentence details

Case No: .....

Conviction Date: .....

The Court at: .....

Offender: .....

Date of Birth: .....

Offence: .....

#### Particulars of imprisonment imposed by State Debt Recovery Office

Term of: .....

to commence on: .....

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

(Clause 20B)

#### NOTICE OF PERIODIC DETENTION ORDER

(*Fines Act 1996*, section 89, *Crimes (Sentencing Procedure) Act 1999*, section 72)

TO .....



of .....

WHEREAS you were, on ....., convicted in the Court at ..... of the following offence:

.....

AND WHEREAS a fine of \$..... was imposed on you in respect of that offence,

AND WHEREAS an amount of \$..... 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 ..... 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 offence,

AND WHEREAS the State Debt Recovery Office has further determined that you be imprisoned for that offence for a period of ....., to commence on ....., 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 ..... in the State of New South Wales at ..... on ..... and (subject to the *Crimes (Administration of Sentences) Act 1999* and to any order under that Act) to the same place at ..... on ..... each subsequent week during the term of your sentence.

.....Commissioner of Corrective Services

Signature of offender: .....

Date: .....