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**THE LEGISLATIVE ASSEMBLY OF  
THE AUSTRALIAN CAPITAL TERRITORY**

**CRIMES (AMENDMENT) BILL (NO.6) 1998  
EXPLANATORY MEMORANDUM**

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## CRIMES (AMENDMENT) BILL (NO.6) 1998

### Explanatory Memorandum

#### OUTLINE

The Crimes (Amendment) Bill (No.6) 1998 (the Bill) amends provisions of the Crimes (Amendment) Act (No.3) 1998 (the Act) to give the Magistrates Court the option of making community service orders as an alternative to imprisonment for adult fine defaulters.

#### NOTES ON CLAUSES

##### Formal provisions

Clauses 1 and 2 are formal clauses setting out the short title of the Act and providing for the commencement of its provisions.

##### Commencement

Subclause 2 (2) provides that the substantive provisions of the Bill will commence on the day on which the substantive provisions of the Act commence.

##### Repeal and Substitution

Clause 3 repeals sections 5, 6 and 7 of the Act which removed the mechanisms by which the Magistrates Court could make a community service order for a fine defaulter.

Clause 3 inserts new sections 5, 6, 7, 7A, 7B, 7C, 7D and 7E into the Act.

##### Making of Orders

Section 5 provides for the omission of subsection 556 G (3) of the Crimes Act 1900 ("the Principal Act") and, by means of new subsections 556 G (3) and 556 G (3A), confers on the Magistrates Court the power to order a fine defaulter to perform community service work with the hours calculated at the rate of one hour for each \$12.50 of the outstanding fine. This rate is based on the daily rate set out in section 154 D of the Magistrates Court Act 1930.

Section 6 reinstates and amends section 556 H of the Principal Act. It provides for the reduction of the number of hours of community service required to be worked where a

fine defaulter pays part of the fine. The reduction rate is one hour for each \$12.50 paid.

#### Prerequisites for order

Section 7 amends paragraph 556 J (2) (b) of the Principal Act to make it applicable to both a fine defaulter against whom a community service order is made and any other offender.

#### Contravention of order - non fine defaulters

Section 7A amends various paragraphs of section 556 K of the Principal Act so that the section applies only to non fine defaulters.

#### Contravention of order - fine defaulters

Section 7B inserts a new section 556 KA into the Principal Act to deal with a contravention of a community service order by a fine defaulter. The new provision requires the Court to revoke the order if the defaulter without reasonable excuse fails or refuses to :

- comply with an order
- advise of a change of address
- comply with directions with regard to the performance of the work
- perform the work in a satisfactory manner or
- comply with any reasonable request of a supervisor while performing work pursuant to the order.

The effect of revoking the order is that the fine defaulter is committed to prison for the relevant period depending on the unpaid amount of the fine under the new section 154D of the Magistrates Court Act 1930. The amount of the fine is reduced by the period of time worked under the order.

#### Conviction while under order - non fine defaulter

Section 7C amends section 556N of the Principal Act so that the section only applies to non-fine defaulters.

#### Conviction while under order - fine defaulters

Section 7D inserts a new section 556NA into the Principal Act which revokes a community service order when a fine defaulter is convicted of an offence. The revocation of the order results in the defaulter being committed to prison.

#### Power of Court - apprehended offender

Section 7E amends subsection 556Q (1) so that it only applies to non fine defaulters. It inserts a new subsection 556Q (3) which requires the Magistrates Court to revoke a

community service order if a fine defaulter is about to leave the ACT with the intention of avoiding the requirements of the order. The revocation of the order results in the fine defaulter being committed to prison.

#### Repeal and Substitution

Clause 4 repeals sections 9 and 10 of the Act and inserts new sections 9, 10 and 11 into the Act.

Section 9 inserts a new subsection 556T (3) into the Principal Act so that the section applies only to non fine defaulters.

#### Completion of Community Service Order

Section 10 inserts a new subsection 556V (2) into the Principal Act to provide that where a fine defaulter has worked for the hours specified in the community service order the outstanding fine is discharged.

#### Schedule 5

Section 11 amends Form 2 of Schedule 5 to the Principal Act so that it is consistent with a fine defaulter being referred to the Court under Section 154 CA of the Magistrate Court Act 1930.