

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Stanhope)

**Magistrates Court (Amendment) Bill
(No. 3) 1998**

A BILL

FOR

An Act to amend the *Magistrates Court (Amendment) Act 1998*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

5 This Act may be cited as the *Magistrates Court (Amendment) Act (No. 3) 1998*.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

10 (2) Section 3 commences on the day on which section 11 of the *Magistrates Court (Amendment) Act 1998* commences.

Job No. 1998/137

3. Substitution

Section 11 of the *Magistrates Court (Amendment) Act 1998* is amended—

- 5 (a) by inserting after paragraph 153 (3) (b) of the *Magistrates Court Act 1930* as amended by the *Magistrates Court (Amendment) Act 1998* the following paragraph:

10 “(ba) a community service order made under subsection 556G (3) of the *Crimes Act 1900* in respect of the person is discharged in accordance with subsection 556V (1) of the *Crimes Act 1900*”;

- (b) by inserting after section 154C of the *Magistrates Court Act 1930* as amended by the *Magistrates Court (Amendment) Act 1998* the following sections:

“154CA. Referral to Magistrates Court

15 “(1) Where—

- (a) the Registrar is satisfied that all reasonable action has been taken under this Division to secure payment of an outstanding fine and there is no reasonable likelihood of it being paid;
- 20 (b) the fine defaulter has attained the age of 18 years; and
- (c) the Executive has refused to remit the outstanding fine under section 159;

the Registrar shall refer the matter to the Court for consideration under subsection 556G (3) of the *Crimes Act 1900*

25 “(2) The Registrar shall not act under subsection (1)—

- (a) unless—
- 30 (i) the Registrar has given the defaulter written notice that a referral is under consideration and that he or she may consent to the referral by notice in writing given to the Registrar within 30 days after the date of the notice; and
- (ii) the defaulter consents to the referral; or
- (b) if a previous such notice has been given to the defaulter in relation to the fine.

35 “(3) The power conferred by subsection (1) may not be exercised by a Deputy Registrar.

“(4) Subsection (1) does not apply to a person whose liability to pay the fine is derived from an order under section 437 of the *Crimes Act 1900*.

“154CB. Referral to Children’s Court

“(1) Where—

(a) the Registrar is satisfied that all reasonable action has been taken under this Division to secure payment of an outstanding fine and there is no reasonable likelihood of it being paid; and

(b) the fine defaulter has not attained the age of 18 years;

the Registrar shall refer the matter to the Children’s Court for consideration under subsection 54 (5) of the *Children’s Services Act 1986*.

“(2) The power conferred by subsection (1) may not be exercised by a Deputy Registrar.

“(3) Subsection (1) does not apply to a person whose liability to pay the fine is derived from an order under section 437 of the *Crimes Act 1900*.”; and

(c) by omitting paragraphs 154D (1) (a) and (b) of the *Magistrates Court Act 1930* as amended by the *Magistrates Court (Amendment) Act 1998* and substituting the following paragraphs:

“(a) the defaulter—

(i) has been notified under subsection 154CA (2); and

(ii) has not consented to a referral to the Court under section 154CA;

and paragraphs 154CA (1) (a), (b) and (c) apply to the defaulter;

(b) the Court has refused to make a community service order in respect of the defaulter under subsection 556G (3) of the *Crimes Act 1900*; or

(c) a community service order in respect of the defaulter is revoked under any of the following provisions of the *Crimes Act 1900*:

(i) section 556KA;

(ii) paragraph 556M (1) (b);

(iii) section 556NA;

(iv) subsection 556Q (3).”.

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