

2013

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**MAGISTRATES COURT (PUBLIC UNLEASED LAND INFRINGEMENT
NOTICES) REGULATION 2013**

SUBORDINATE LAW SL2013—17

EXPLANATORY STATEMENT

**Presented by
Simon Corbell MLA
Attorney-General**

Magistrates Court (Public Unleased Land Infringement Notices) Regulation 2013

Overview

The *Magistrates Court (Public Unleased Land Infringement Notices) Regulation 2013* is being made under part 3.8 of the *Magistrates Court Act 1930* and will enable infringement notices to be issued for offences against the *Public Unleased Act 2013*. Infringement notices are intended to provide an alternative to prosecution.

This regulation enables authorised people appointed under section 89 of the *Public Unleased Land Act 2013* and investigators appointed under section 36 (1) of the *Fair Trading (Australian Consumer Law) Act 1992* to issue infringement notices and reminder notices. Under the *Magistrates Court Act 1930* a person authorised to issue an infringement notice for an offence has the discretion to decide whether or not to issue a notice.

Summary of clauses

Clause 1 Name of regulation

This clause provides that the name of the regulation is the *Magistrates Court (Public Unleased Land Infringement Notices) Regulation 2013*.

Clause 2 Commencement

This clause provides for the commencement of the regulation on the commencement of the *Public Unleased Land Act 2013*, section 5.

Clause 3 Dictionary

This clause provides that the dictionary at the end of the regulation is part of the regulation. The dictionary defines certain terms used in the regulation.

A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, sections 155 and 156 (1)).

Clause 4 Notes

This clause provides that a note included in the regulation is, in law, purely explanatory and is not part of the regulation. See *Legislation Act 2001*, sections 127 (1), (4) and (5) for the legal status of notes.

Clause 5 Purpose of regulation

This clause provides the purpose of the regulation is to provide for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the *Public Unleased Land Act 2013*.

Clause 6 Administering authority

This clause provides that the administering authorities for an infringement notice offence under the regulation are the director-general for the *Public Unleased Land Act 2013* and the commissioner for fair trading.

Clause 7 Infringement notice offences

This clause provides that the *Magistrates Court Act 1930*, part 3.8 applies to an offence against a provision of the *Public Unleased Land Act 2013* mentioned in the regulation in schedule 1, column 2.

Clause 8 Infringement notice penalties

This clause provides for the penalty that is payable by an individual with an infringement notice. The penalty payable by an individual for each infringement notice is set in column 4 of schedule 1, while the penalty payable by a corporation is 5 times the amount mentioned in schedule 1, column 4.

This clause also prescribes that the cost of service of a reminder notice under the *Magistrates Court Act 1930*, for a relevant infringement notice offence is \$34.

Clause 9 Contents of infringement notices—identifying authorised person

This clause provides that an infringement notice must identify the authorised person who served the notice by the authorised person's identity card.

Clause 10 Contents of infringement notices—other information

This clause provides an infringement notice served on a company must include the company's ACN.

Clause 11 Contents of reminder notices—identifying authorised person

This clause provides that a reminder notice for an infringement notice offence must identify the authorised person who served the notice by the authorised person's identity card.

Clause 12 Authorised people for infringement notice offences

This clause provides that an authorised person appointed under section 89 of the *Public Unleased Land Act 2013* and an investigator appointed under 36 (1) of the *Fair Trading (Australian Consumer Law) Act 1992* may serve infringement notices and reminder notices for infringement notice offences against the *Public Unleased Land Act 2013*. Investigators may only issue infringement notices and reminder notices for offences in relation to an outdoor eating and drinking place or offences against sections 43 and 44 of the *Public Unleased Land Act 2013* in relation to parking a vehicle on public unleased land.

Schedule 1 Public Unleased Land Act 2013 infringement notice offences and penalties

Schedule 1 lists the infringement notice offences and penalties under the *Public Unleased Land Act 2013* that are prescribed by sections 7 and 8 of the regulation.

The offences that are proposed to be dealt with by way of an infringement notice under the regulation are relatively minor in nature, and have infringement notice penalties ranging from \$22 to \$1,100 (for an individual) or \$110 to \$5,500 (for a corporation). These penalty values have been set so that the nominal amount on an infringement notice is 20% of the maximum fine stipulated in the offence.