



Australian Capital Territory

Road Transport (General) (Infringement Notices) Amendment Act 2012

A2012-24

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Australian Capital Territory

Road Transport (General) (Infringement Notices) Amendment Act 2012

A2012-24

An Act to amend the *Road Transport (General) Act 1999*, and for other purposes

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

1 Name of Act

This Act is the *Road Transport (General) (Infringement Notices) Amendment Act 2012*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see the Legislation Act, s 77 (1)).

- (2) If this Act has not commenced within 1 year beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended

This Act amends the *Road Transport (General) Act 1999*.

Note This Act also amends the following legislation (see sch 1);

- *Road Transport (Driver Licensing) Act 1999*
- *Road Transport (General) Regulation 2000*
- *Road Transport (Offences) Regulation 2005*.

**4 Infringement notice—payment of penalty etc
New section 26 (2) (aa)**

insert

(aa) apply to the administering authority for—

- (i) payment of the infringement notice penalty by instalments; or

Note See s 30A for applications to pay infringement notice penalties by instalments.

- (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or

Note See s 30C for applications to discharge infringement notice penalties.

- (iii) waiver of the infringement notice penalty;

Note See s 30F for applications for waiver of infringement notice penalties.

**5 Action on service of reminder notice—payment of penalty etc
New section 28 (2) (aa)**

insert

(aa) apply to the administering authority for—

- (i) payment of the infringement notice penalty by instalments; or

Note See s 30A for applications to pay infringement notice penalties by instalments.

- (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or

Note See s 30B for applications to discharge infringement notice penalties.

- (iii) waiver of the infringement notice penalty;

Note See s 30D for applications for waiver of infringement notice penalties.

6 New sections 30A to 30G

insert

30A Application for payment of penalty by instalments

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority for payment of all or part of the infringement notice penalty by instalments over a period of time that may be longer than 6 months.

Note If a form is approved under s 225 for this provision, the form must be used.

- (2) The application must be made within 28 days after the date of service of the infringement notice or reminder notice.
- (3) However, the application may be made at a later time if the administering authority is satisfied on reasonable grounds that there are circumstances why the application could not be made within the 28-day period.
- (4) The application—
 - (a) must include information about the financial circumstances of the person served with the notice; and

- (b) may include information about whether the person served with the notice is the holder of 1 of the following cards—
 - (i) a current health care card issued under the *Social Security Act 1991* (Cwlth);
 - (ii) a current pensioner concession card issued under the *Social Security Act 1991* (Cwlth);
 - (iii) a current pensioner concession card issued in relation to a pension under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth);
 - (iv) a current gold card;
 - (v) a card prescribed by regulation; and
 - (c) may give the administering authority written authorisation for the automatic deduction of a nominated maximum amount each fortnight from a nominated pension or benefit the person is receiving; and
 - (d) must include anything else prescribed by regulation.
- (5) In this section:

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person's eligibility, under the *Veterans' Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth), to be provided with treatment for all injuries or diseases.

**30B Application for payment of penalty by instalments—
decision**

- (1) On application by a person under section 30A, the administering authority must—
 - (a) allow the application; or
 - (b) refuse the application.
- (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.
- (3) The administering authority—
 - (a) must allow payment by instalments if the person is the holder of a card mentioned in section 30A (4) (b); and
 - (b) in any other case—may allow payment by instalments if satisfied on reasonable grounds that it is justified because of the person’s financial circumstances.
- (4) The administering authority must—
 - (a) if the application is allowed—tell the person in writing about the arrangements for paying the infringement notice penalty by instalments; and
 - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.
- (5) A regulation may make provision in relation to the following:
 - (a) any conditions applying to allowing an application under section 30A;
 - (b) the way payment of an infringement notice penalty by instalments is to be made.

30C Application to discharge penalty by community work or social development program

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority to discharge the infringement notice penalty for the offence by completing an approved community work or social development program.

Note If a form is approved under s 225 for this provision, the form must be used.

- (2) The application must be made within 28 days after the date of service of the infringement notice or reminder notice.
- (3) However, the application may be made at a later time if the administering authority is satisfied on reasonable grounds that there are circumstances why the application could not be made within the 28-day period.
- (4) The application must set out—
 - (a) either or both of the following:
 - (i) the financial circumstances of the person;
 - (ii) any special circumstances of the person; and
 - (b) anything else prescribed by regulation.

30D Application to discharge penalty by community work or social development program—decision

- (1) On application by a person under section 30C, the administering authority must send the application to the director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work).

- (2) The director-general must—
 - (a) allow the application; or
 - (b) refuse the application.
- (3) The director-general may, in writing, ask the applicant or a person mentioned in the application for more information to assist the director-general to make a decision under this section.
- (4) The director-general may allow the application if satisfied on reasonable grounds that it is justified because of—
 - (a) either or both of the following:
 - (i) the financial circumstances of the person;
 - (ii) any special circumstances of the person; and
 - (b) anything else prescribed by regulation.
- (5) The director-general must—
 - (a) if the application is allowed—
 - (i) tell the administering authority that the application is allowed; and
 - (ii) tell the applicant in writing about the arrangements for completing the approved community work or social development program; and
 - (b) if the application is refused—
 - (i) tell the administering authority that the application is refused; and
 - (ii) tell the applicant in writing about the refusal and the reasons for the refusal.

- (6) A regulation may make provision in relation to the following:
- (a) any conditions applying to allowing an application under section 30C;
 - (b) the arrangements for completing an approved community work or social development program, including when an approved community work or social development program is taken to be completed and evidence of completion;
 - (c) the administration of approved community work or social development programs by a prescribed agency.

- (7) In this section:

special circumstances, of a person, means any of the following circumstances that relate to the person and significantly affect his or her ability to pay an infringement notice penalty:

- (a) mental or intellectual disability, disease or illness;
- (b) physical disability, disease or illness;
- (c) addiction to drugs, alcohol or another substance;
- (d) being a victim of domestic violence;
- (e) homelessness, or living in crisis or transitional or supported accommodation;
- (f) anything else prescribed by regulation.

30E Approval of community work or social development program

- (1) The director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work) may approve a community work or social development program for this division.

- (2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

30F Application for waiver of penalty

- (1) A person served with an infringement notice or reminder notice for an infringement notice offence may apply to the administering authority for waiver of—

- (a) the infringement notice penalty for the infringement notice offence; and
- (b) the amount payable for the cost of serving a reminder notice.

Note If a form is approved under s 225 for this provision, the form must be used.

- (2) The application must set out—

- (a) the person's financial circumstances; and
- (b) the person's special circumstances; and
- (c) anything else prescribed by regulation.

- (3) In this section:

special circumstances, of a person—see section 30D (7).

30G Application for waiver of penalty—decision

- (1) On application by a person under section 30F, the administering authority must—

- (a) allow the application; or
- (b) refuse the application.

- (2) The administering authority may, in writing, ask the applicant or a person mentioned in the application for more information to assist the authority to make a decision under this section.

- (3) The administering authority must allow an application if satisfied on reasonable grounds that—
- (a) the applicant does not have, and is unlikely to have, the financial ability to pay the infringement notice penalty; and
 - (b) special circumstances exist in relation to the applicant; and
 - (c) enforcement action has not resulted in, or is unlikely to result in, the payment of the infringement notice penalty; and
 - (d) the applicant is not a suitable person to discharge the penalty by completing an approved community work or social development program.
- (4) For subsection (3) (d), the administering authority may consult with the director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work).
- (5) The administering authority must—
- (a) if the application is allowed—tell the person in writing about the waiver of the infringement notice penalty; and
 - (b) if the application is refused—tell the person in writing about the refusal and the reasons for the refusal.
- (6) In this section:
- special circumstances***, of a person—see section 30D (7).

**7 Revocation of suspension
Section 47 (1) (b)**

substitute

- (b) the infringement notice penalty payable by the person for the offence—
 - (i) is paid to the administering authority; or
 - (ii) is discharged by attending an approved community work or social development program under section 30C (Application to discharge penalty by community work or social development program); or
 - (iii) is waived under section 30G (Application for waiver of penalty).

8 New section 47A

insert

47A Discharge of penalty by other means—revocation of suspension action

- (1) This section applies if—
 - (a) a suspension is in force under this division because of an infringement notice offence for which an infringement notice has been served on a person; and
 - (b) the person is—
 - (i) paying the infringement notice penalty for the offence in compliance with arrangements made under section 30B (Application for payment of penalty by instalments—decision); or

- (ii) discharging the infringement notice penalty for the offence in compliance with arrangements made under section 30D (Application to discharge penalty by community work or social development program—decision).
- (2) The road transport authority must—
 - (a) revoke the suspension; and
 - (b) tell the person in writing that the suspension has been revoked.
- (3) The administering authority may send the person a written notice to reinstate the suspension (a *suspension reinstatement notice*)—
 - (a) if—
 - (i) a suspension is revoked under subsection (2); and
 - (ii) the person does not continue to comply with the arrangements made under section 30B or section 30D; or
 - (b) in circumstances prescribed by regulation.
- (4) A regulation may prescribe the matters to be considered by the road transport authority in relation to reinstating a suspension.
- (5) A suspension reinstatement notice must state—
 - (a) particulars of the infringement notice and reminder notice to which the suspension relates; and
 - (b) particulars of the arrangements made under section 30B or section 30D that apply in relation to the infringement notice penalty; and
 - (c) if subsection (3) (a) applies, that if the person does not take the stated steps to comply with the arrangements made under section 30B or section 30D by a stated date (the *suspension reinstatement date*) the road transport authority will take suspension action on the suspension reinstatement date; and

- (d) any information prescribed by regulation; and
 - (e) any other information that the road transport authority considers appropriate.
- (6) However, the suspension reinstatement date must not be earlier than 10 days after the day the suspension reinstatement notice is sent to the person.
- (7) A suspension reinstatement under this section takes effect on the suspension reinstatement date.
- (8) If the road transport authority takes suspension reinstatement action, the authority must send a suspension reinstatement confirmation notice to the person that states—
- (a) the suspension reinstatement date; and
 - (b) the action that was taken on the suspension reinstatement date; and
 - (c) any information prescribed by regulation; and
 - (d) any other information that the road transport authority considers appropriate.
- (9) A regulation may make provision in relation to information to be given to the road transport authority about when a person is complying with arrangements made under section 30B or section 30D.
- (10) In this section:
suspension action—see section 44 (2) (b).

9 Dictionary, new definition of *approved community work or social development program*

insert

approved community work or social development program, for division 3.2 (Infringement and reminder notices), means a community work or social development program approved by the director-general under section 30E (Approval of community work or social development program).

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Road Transport (Driver Licensing) Act 1999

[1.1] Section 13A (1) (c)

substitute

- (c) the person is served with an infringement notice for the offence, the person applies in accordance with the *Road Transport (General) Act 1999* for payment of the infringement notice penalty by extension of time to pay, payment by instalments, discharge of penalty by community work or social development program, and the administering authority allows the person the option sought; or
- (ca) the person is served with an infringement notice for the offence, the person applies in accordance with the *Road Transport (General) Act 1999* for waiver of the requirement to pay, and the administering authority waives the payment; or

Part 1.2 Road Transport (General) Regulation 2000

[1.2] Schedule 1, part 1.5, new items 1A to 1C

insert

1A	30B (1) (b)	administering authority—refuse to allow payment by instalments
1B	30D (2) (b)	director-general responsible for the <i>Crimes (Sentence Administration) Act 2005</i> , pt 6.2—refuse to allow discharge of penalty by completing community work or social development program
1C	30G (1) (b)	administering authority—refuse to allow waiver of payment

Part 1.3 Road Transport (Offences) Regulation 2005

[1.3] New section 14A (2) (a) (ia)

insert

- (ia) apply to the administering authority for—
- (A) payment of the infringement notice penalty by instalments; or
 - (B) discharge of the infringement notice penalty by completing an approved community work or social development program; or
 - (C) waiver of the infringement notice penalty;

[1.4] New section 14A (2) (ia)

insert

- (ia) how the person may apply for—
- (i) payment of the infringement notice penalty by instalments; or
 - (ii) discharge of the infringement notice penalty by completing an approved community work or social development program; or
 - (iii) waiver of the infringement notice penalty;

[1.5] New section 14B (1) (m) (ia)

insert

- (ia) apply to the administering authority for—
- (A) payment of the infringement notice penalty by instalments; or
 - (B) discharge of the infringement notice penalty by completing an approved community work or social development program; or
 - (C) waiver of the infringement notice penalty;

[1.6] New section 14B (2) (aa)

insert

- (aa) how the person may apply for—
- (i) payment of the infringement notice penalty by instalments; or
 - (ii) discharge of the infringement notice penalty by attending an approved community work or social development program; or
 - (iii) waiver of the infringement notice penalty;

[1.7] Dictionary, note 3

insert

- approved community work or social development program

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 22 February 2012.

2 Notification

Notified under the Legislation Act on 24 May 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Road Transport (General) (Infringement Notices) Amendment Bill 2012, which was passed by the Legislative Assembly on 9 May 2012.

Clerk of the Legislative Assembly

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