

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Amanda Bresnan)

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

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Additional information in infringement notices	
New section 26 (1) (ba)	2
5 New section 26 (2) (ba)	3
6 New sections 28A to 28D	3
7 Revocation of suspension	
Section 47 (1) (b)	8
8 New section 48A	8

Contents

		Page
Schedule 1	Consequential amendments	11
Part 1.1	Road Transport (Driver Licensing) Act 1999	11
Part 1.2	Road Transport (General) Regulation 2000	12

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

A Bill for

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 **1 Name of Act**

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

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

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

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

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Legislation amended**

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

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

- 18 • *Road Transport (Driver Licensing) Act 1999*
19 • *Road Transport (General) Regulation 2000.*

20 **4 Additional information in infringement notices**
21 **New section 26 (1) (ba)**

22 *insert*

23 (ba) the person may apply to the administering authority for—

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

26 (ii) discharge of the infringement notice penalty by attending
27 an approved community work or social development
28 program; or

(iii) waiver of the infringement notice penalty; and

5 New section 26 (2) (ba)

insert

(ba) explain 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; and

6 New sections 28A to 28D

insert

28A Payment of penalty by instalments

- (1) A person served with an infringement notice or a reminder notice 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.

- 1 (4) The application—
- 2 (a) must provide information about the financial circumstances of
- 3 the person served with the notice; and
- 4 (b) may provide information about whether the person served with
- 5 the notice—
- 6 (i) is receiving a Centrelink benefit and has a current health
- 7 care card or pensioner concession card issued by
- 8 Centrelink; or
- 9 (ii) has a current Department of Veterans' Affairs pensioner
- 10 concession card or gold card.; and
- 11 (c) may provide the administering authority with authorisation for
- 12 the automatic deduction of a nominated maximum amount
- 13 each fortnight from the Centrelink benefit.
- 14 (5) The administering authority—
- 15 (a) must allow payment by instalments if the person has a current
- 16 health care card or pensioner concession card issued by
- 17 Centrelink, or a Department of Veterans' Affairs pensioner
- 18 concession card or gold card; and
- 19 (b) in any other case—may allow payment by instalments if
- 20 satisfied on reasonable grounds that it is justified because of
- 21 the person's financial circumstances.
- 22 (6) The administering authority must—
- 23 (a) if the application is allowed—tell the person in writing about
- 24 the arrangements for paying the infringement notice penalty by
- 25 instalments; and
- 26 (b) if the application is refused—tell the person in writing about
- 27 the refusal and the reasons for the refusal.

1 **28B Discharging penalty by community work or social**
2 **development program**

- 3 (1) A person served with an infringement notice or a reminder notice
4 may apply to the administering authority to discharge the penalty by
5 attending an approved community work or social development
6 program.

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

- 9 (2) The application must be made within 28 days after the date of
10 service of the infringement notice or reminder notice.

- 11 (3) However, the application may be made at a later time if the
12 administering authority is satisfied on reasonable grounds that there
13 are circumstances why the application could not be made within
14 the 28-day period.

- 15 (4) The application must set out either or both of the following:

16 (a) the financial circumstances of the person served with the
17 notice;

18 (b) any special circumstances of the person served with the notice.

- 19 (5) The administering authority may allow the application if satisfied on
20 reasonable grounds that it is justified because of either or both of the
21 following:

22 (a) the person's financial circumstances;

23 (b) the person's special circumstances.

- 24 (6) The administering authority must—

25 (a) if the application is allowed—tell the person in writing about
26 the arrangements for attending the approved community work
27 or social development program; and

- 1 (b) if the application is refused—tell the person in writing about
2 the refusal and the reasons for the refusal.
- 3 (7) Attending an approved community work or social development
4 program discharges an infringement notice penalty at the rate
5 determined by the Minister.
- 6 (8) A determination is a notifiable instrument.
- 7 *Note* A notifiable instrument must be notified, and presented to the
8 Legislative Assembly, under the Legislation Act.
- 9 (9) In this section:
- 10 *special circumstances*, of a person, means any of the following
11 circumstances that relate to the person and significantly affect his or
12 her ability to pay an infringement notice penalty:
- 13 (a) mental or intellectual disability, disease or illness;
- 14 (b) physical disability, disease or illness;
- 15 (c) addiction to drugs, alcohol or another substance;
- 16 (d) domestic violence;
- 17 (e) homelessness, or living in crisis or transitional or supported
18 accommodation.

19 **28C Approval of community work or social development**
20 **program**

- 21 (1) The Minister may approve a community work or social development
22 program for this part.
- 23 (2) An approval is a notifiable instrument.
- 24 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **28D Waiver of penalty**

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

4 (a) the infringement notice penalty; and

5 (b) a charge imposed for the service of a reminder notice.

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

8 (2) The application must set out—

9 (a) the financial circumstances of the person served with the
10 notice; and

11 (b) the special circumstances of the person served with the notice.

12 (3) The administering authority must allow an application if satisfied on
13 reasonable grounds that—

14 (a) the applicant does not have, and is unlikely to have, the
15 financial ability to pay the infringement notice penalty; and

16 (b) special circumstances exist in relation to the applicant; and

17 (c) enforcement action has not resulted in, or is unlikely to result
18 in, the payment of the infringement notice penalty; and

19 (d) the applicant is not a suitable person to pay the penalty by
20 attending an approved community work or social development
21 program.

22 (4) The administering authority must—

23 (a) if the application is allowed—tell the person in writing about
24 the waiver of the infringement notice penalty; and

25 (b) if the application is refused—tell the person in writing about
26 the refusal and the reasons for the refusal.

- 1 (5) In this section:
2 *special circumstances*, of a person—see section 28B (9).

3 **7 Revocation of suspension**
4 **Section 47 (1) (b)**

5 *substitute*

- 6 (b) the infringement notice penalty payable by the person for the
7 offence—
8 (i) is paid to the administering authority; or
9 (ii) is discharged by attending an approved community work
10 or social development program under section 28B
11 (Discharging penalty by community work or social
12 development program); or
13 (iii) is waived under section 28D (Waiver of penalty).

14 **8 New section 48A**

15 *insert*

16 **48A Revocation of suspension by road transport authority**

- 17 (1) A person whose licence to drive is suspended under section 44 may
18 apply to the road transport authority to revoke the suspension.
19 (2) The road transport authority may revoke the suspension if satisfied
20 on reasonable grounds that the applicant is—
21 (a) paying the infringement notice penalty that gave rise to the
22 suspension in compliance with the arrangements made under
23 section 28A; or
24 (b) discharging the infringement notice penalty in compliance with
25 the arrangements made under section 28B.

-
- 1 (3) If the road transport authority revokes the suspension under
2 subsection (2) the authority must tell the applicant in writing—
- 3 (a) that the suspension has been revoked; and
4 (b) about the effect of subsection (4).
- 5 (4) If a suspension is revoked under subsection (2) and the applicant
6 does not continue to comply with the arrangements made under
7 section 28A or section 28B the road transport authority may send
8 the applicant written notice to reinstate the suspension (a *suspension*
9 *reinstatement notice*).
- 10 (5) A suspension reinstatement notice must state—
- 11 (a) particulars of the infringement notice and reminder notice to
12 which the suspension relates; and
- 13 (b) particulars of the arrangements made under section 28A or
14 section 28B that apply in relation to the infringement notice
15 penalty; and
- 16 (c) that if the person does not take the stated steps to comply with
17 the arrangements made under section 28A or section 28B by a
18 stated date (the *suspension reinstatement date*) the road
19 transport authority will suspend the person's driver licence on
20 the suspension reinstatement date; and
- 21 (d) any information prescribed by regulation; and
- 22 (e) any other information that the road transport authority
23 considers appropriate.
- 24 (6) However, the suspension reinstatement date must not be earlier than
25 10 days after the day the suspension reinstatement notice is sent to
26 the person.
- 27 (7) A suspension reinstatement under this section takes effect on the
28 suspension reinstatement date.

- 1 (8) If the road transport authority takes suspension reinstatement action,
2 the authority must send a suspension reinstatement confirmation
3 notice to the person that states—
- 4 (a) the suspension reinstatement date; and
- 5 (b) the action that was taken on the suspension reinstatement date;
6 and
- 7 (c) any information prescribed by regulation; and
- 8 (d) any other information that the road transport authority
9 considers appropriate.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Road Transport (Driver**
4 **Licensing) Act 1999**

5 **[1.1]** **Section 13A (1) (c)**

6 *substitute*

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

1 **Part 1.2 Road Transport (General)**
2 **Regulation 2000**

3 **[1.2] Schedule 2, new part 2.2**

4 *insert*

5 **Part 2.2 Road Transport (General) Act**
6 **1999**

column 1 item	column 2 provision	column 3 decision
1	28A	administering authority—refuse to allow payment by instalments
2	28B	administering authority—refuse to allow discharge of penalty by community work or social development program
3	28D	administering authority—refuse to allow waiver of payment
4	48A	road transport authority—refuse to revoke suspension of driver licence

Endnotes

1 Presentation speech

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

2 Notification

Notified under the Legislation Act on 2012.

3 Republications of amended laws

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

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