

2004

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**MAGISTRATES COURT (SALE OF RESIDENTIAL PROPERTY
INFRINGEMENT NOTICES) REGULATIONS 2004
Subordinate Law No SL 2004-24**

EXPLANATORY STATEMENT

**Circulated by authority of the
Attorney General
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Overview

Part 8 of the *Magistrates Court Act 1930* provides for the issue of infringement notices for offences listed in regulations. The Magistrates Court (Sale of Residential Property Infringement Notices) Regulations 2003 (the regulations) enable infringement notices to be issued for certain offences in the *Civil Law (Sale of Residential Property) Act 2003*.

The *Civil Law (Sale of Residential Property) Act 2003* establishes a new process for the making and exchange of contracts for the sale of residential property and introduces new rules for public auctions of residential property in the ACT. The new conveyancing scheme is designed to reduce significantly the incidence of the unethical practice of gazumping and provide increased levels of consumer protection for both buyers and sellers of residential property. The new public auction rules are designed to increase transparency in the auction process and limit opportunities for dummy bidding to occur.

The ability to issue infringement notices for offences against the *Civil Law (Sale of Residential Property) Act 2003* will encourage compliance with the legislation and will allow for immediate action to be taken against people who are breaching the law. This initiative should provide greater protection for the ACT community.

Regulations

Regulations 1 and 2 – Name of regulations and commencement

Regulations 1 and 2 are formal requirements of all regulations, specifying the title of the regulations and the commencement date.

Regulation 3 – Purpose of regulations

This regulation explains that the purpose of the regulations is to provide for infringement notices to be issued for certain offences against the *Civil Law (Sale of Residential Property) Act 2003*.

Regulation 4 – Notes

This regulation explains that a note in the regulations is explanatory and is not part of the regulations.

Regulation 5 – Administering authority

This regulation explains that the commissioner for fair trading is the administering authority for an infringement notice offence against the *Civil Law (Sale of Residential Property) Act 2003*.

Regulation 6 – Infringement notice offences

This regulation provides that Part 8 of the *Magistrates Court Act 1930* applies to the offence provisions of the *Civil Law (Sale of Residential Property) Act 2003* listed in Schedule 1, column 2.

Regulation 7 – Infringement notice penalties

This regulation provides that the penalty payable by an individual issued with an infringement notice is the amount listed in Schedule 1, column 4 for that offence. Sub-regulation (2) provides that the penalty for a corporation is five times the amount listed in Schedule 1, column 4. The regulation also establishes the fee for serving a reminder notice at \$34.

Regulation 8 – Contents of infringement notices – other information

This regulation requires that where an infringement notice is served on a company, the notice must include the company's ACN.

Regulation 9 - Contents of infringement notices – identifying authorised person

This regulation requires that where an authorised person issues an infringement notice, the notice must identify the authorised person by full name or surname and initials, and by any unique number issued to the authorised person by the commissioner for fair trading.

Regulation 10 – Contents of reminder notices – identifying authorised persons

This regulation requires that where an authorised person issues a reminder notice, the notice must identify the authorised person by full name or surname and initials, and by any unique number issued to the authorised person by the commissioner for fair trading.

Regulation 11 – Authorised people for infringement notice offences

This regulation provides that an infringement notice and a reminder notice may be issued by an investigator appointed under section 9 of the *Fair Trading (Consumer Affairs) Act 1973*.

Schedule 1 – Civil Law (Sale of Residential Property) Act infringement notice offences and penalties

The schedule sets out the offence provisions of the *Civil Law (Sale of Residential Property) Act 2003* for which an infringement notice can be issued and the corresponding penalty amount that applies to each offence.